gration bill; to the Committee on Immigration and Naturalization.

By Mr. GARRETT: Papers to accompany bill (H. R. 27091) for the relief of the estate of Mrs. Rebecca Dungan, deceased; to the Committee on War Claims.

Also, papers to accompany bill (H. R. 27092) for the relief of William Grant; to the Committee on War Claims.

By Mr. GREGG of Pennsylvania: Petitions of sundry citizens of Irwin, West Newton, Jeannette, Greensburg, and Scottsdale, Pa., favoring the regulation of express rates and express classifications by the Interstate Commerce Commission; to the Committee on Interstate and Foreign Commerce.

By Mr. GRIEST: Resolutions of the State Council of Pennsylvania, Order of Independent Americans, and of the Pennsylvania Camp, Patriotic Order Sons of America, urging enactment of legislation in conformity with the provisions of the Dillingham bill (S. 3175); to the Committee on Immigration and Naturalization.

By Mr. HAMMOND: Resolution of the Minnesota State Forestry Board, favoring Federal cooperation in forest-fire prevention; to the Committee on Appropriations.

Also, petitions from citizens of the second congressional district of Minnesota, protesting against parcel-post legislation; to the Committee on the Post Office and Post Roads.

By Mr. HOWELL: Petitions of sundry citizens of Utah, favoring the regulation of express rates by the Interstate Commerce Commission; to the Committee on Interstate and Foreign Commerce.

By Mr. HANNA: Petition of E. E. Matteson and others, of Coal Harbor; of H. P. Cooper and others, of the federated churches of Casselton; of Martin Romstad and others, of Hatton; of Rev. F. W. Gress and others, of Beach; of Oluf Aune and others, of Reynolds and Buxton; and of C. E. Stinson and O. Hungness and others, all in the State of North Dakota, favoring passage of Kenyon bill (S. 4043); to the Committee on the Judiciary.

By Mr. MOON of Tennessee: Papers to accompany bill for the relief of Jesse M. Pirkle; to the Committee on Invalid Pensions.

Also, papers to accompany bill for the relief of James H. Pack (H. R. 27116); to the Committee on Invalid Pensions.

By Mr. NEELEY: Petition of citizens of Kiowa County, Kans., and of citizens of Ness County, Kans., requesting the passage of Kenyon-Sheppard bill; to the Committee on the Judiciary.

By Mr. REYBURN: Petitions of sundry citizens of Philadelphia, Pa., favoring the Dillingham immigration bill; to the Committee on Immigration and Naturalization.

Also, petition of the Jewish Community of Philadelphia, Pa., remonstrating against further restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. SIMS: Petitions of sundry citizens of Tennessee, favoring the regulation of express rates and express classifications by the Interstate Commerce Commission; to the Committee on Interstate and Foreign Commerce.

By Mr. SPARKMAN: Memorial of citizens of Hillsboro County, Fla., in favor of Kenyon bill (S. 4043); to the Committee on the Judiciary.

By Mr. VARE: Petition of Alva B. Johnson, president Baldwin Locomotive Works, and 205 other business firms and individuals of Philadelphia, Pa., in favor of the proposed 1,700-foot dry dock at the Philadelphia Navy Yard; to the Committee on Rivers and Harbors.

Also, resolutions of South Philadelphia Business Men's Association, in favor of the 1,700-foot dry dock at the Philadelphia Navy Yard; to the Committee on Naval Affairs.

SENATE.

FRIDAY, *December 13, 1912.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

THOMAS H. PAYNTER, a Senator from the State of Kentucky, appeared in his seat to-day.

The Journal of yesterday's proceedings was read and approved.

ELECTORS FOR PRESIDENT AND VICE PRESIDENT.

The PRESIDENT pro tempore laid before the Senate communications from the Secretary of State, transmitting, pursuant to law, authentic copies of the certificates of official ascertainment of electors for President and Vice President in the States of Delaware, Georgia, Indiana, Maine, Maryland, Minnesota, New Hampshire, Oklahoma, Oregon, Vermont, and Virginia at the elections held therein on November 5, 1912, and furnished by the governors of these States, which were ordered to be filed.

NOBEL PEACE PRIZE.

The PRESIDENT pro tempore laid before the Senate the following communication from the Secretary of State, which was read and, with the accompanying papers, referred to the Committee on the Library:

DEPARTMENT OF STATE,
Washington, December 11, 1912.

The PRESIDENT PRO TEMPORE OF THE UNITED STATES SENATE.

SIR: At the request of the secretary of the Nobel committee of the Norwegian Parliament, I have the honor to transmit, for the information of the Senate of the United States, a copy of a circular issued by the Nobel committee, furnishing information as to the distribution of the Nobel peace prize for the year 1913. I have the honor to be, sir,

Your obedient servant,

[SEAL.] P. C. KNOX.

Inclosure as above.

FRENCH SPOLIATION CLAIMS.

The PRESIDENT pro tempore laid before the Senate communications from the assistant clerk of the Court of Claims, transmitting findings of fact and conclusions of law and opinion filed under the act of January 20, 1885, in the French spoliation claims set out in the annexed findings by the court relating to the vessel brig *Philanthropist*, master, Forrest Richardson (H. Doc. No. 1140), and the vessel ship *Asia*, master, Edward Yard (H. Doc. No. 1135), which, with the accompanying papers, were referred to the Committee on Claims and ordered to be printed.

He also laid before the Senate communications from the assistant clerk of the Court of Claims, transmitting the findings of fact and conclusions of law filed under the act of January 20, 1885, in the French spoliation claims set out in the annexed findings by the court relating to the following causes:

Vessel schooner *Lucy*, master, Eliakim Benham (H. Doc. No. 1142);

Vessel brig *Abby*, master, Harding Williams (H. Doc. No. 1138);

Vessel sloop *Orpha*, master, John Annable (H. Doc. No. 1132);

Vessel schooner *Rising States*, master, Daniel Bradford (H. Doc. No. 1145);

Vessel schooner *Two Brothers*, master, Isaac Lockwood (H. Doc. No. 1141);

Vessel schooner *Commerce*, master, Samuel Freeman (H. Doc. No. 1143);

Vessel brig *George*, master, Richard Quirk (H. Doc. No. 1136);

Vessel schooner *Betsey*, master, George Vincent (H. Doc. No. 1147);

Vessel schooner *Dolphin*, master, Nathaniel H. Downe (H. Doc. No. 1148);

Vessel brig *Peggy*, master, Nathaniel Small (H. Doc. No. 1139);

Vessel schooner *Belisarius*, master, William Bartlett (H. Doc. No. 1149);

Vessel schooner *Lion*, master, Peter Frazier (H. Doc. No. 1146);

Vessel schooner *Kitty*, master, Ezra Finney (H. Doc. No. 1144);

Vessel ship *Louisa*, master, John Clarke, jr. (H. Doc. No. 1133);

Vessel dogger *Neptune*, master, Frederick William Bargum (H. Doc. No. 1131);

Vessel ship *Hunter*, master, William Whitlock (H. Doc. No. 1134); and

Vessel brig *Mars*, master, Thomas Buntin (H. Doc. No. 1137).

The foregoing causes were, with the accompanying papers, referred to the Committee on Claims and ordered to be printed.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented a resolution adopted by the executive committee of the Woman's Christian Temperance Union of the District of Columbia, requesting the printing of as many copies as may be printed without a concurrent resolution, of Senate Document No. 435 on "The Iowa Injunction and Abatement Law," Sixty-second Congress, second session, with the Kenyon injunction bill (S. 5861) added thereto, which was referred to the Committee on Printing.

Mr. GRONNA presented petitions of sundry citizens of Sterling, Williston, Bathgate, Neche, Steele County, Benson County, Ramsey County, Milnor, Adams, Nelson County, Finley, Ryder, Makoti, Fargo, Traill County, Edgeley, Ellendale, and Sharon, and of the Woman's Christian Temperance Unions of Fargo and Buxton, all in the State of North Dakota, praying for the passage of the so-called Kenyon interstate liquor bill, which were ordered to lie on the table.

Mr. CULLOM presented petitions of the Woman's Christian Temperance Unions of Richland County, Clay County, Monmouth, Palmer Park, Granite City, and Washington, and of sundry citizens of Lebanon, Carrier Mills, Polo, and Monmouth, all in the State of Illinois, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented memorials of Local Unions No. 39, of Quincy; No. 335, of Danville, and No. 364, of Rock Island, In-

ternational Union of the United Brewery Workmen, all in the State of Illinois, remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. CRAWFORD presented a petition of sundry citizens of Custer County, S. Dak., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

He also presented a petition of members of the Black Hills Council of the Sioux, North Cheyenne, and Arapahoe Indians of South Dakota, praying that an investigation be made relative to their rights under existing treaties, which was referred to the Committee on Indian Affairs.

Mr. BRISTOW presented petitions of sundry citizens of Athol and Gysum, in the State of Kansas, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. McLEAN presented a memorial of Local Union, No. 40, International Union of United Brewery Workmen, of Bridgeport, Conn., remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. BROWN presented a petition of sundry citizens of Pawnee City, Nebr., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. SHIVELY presented petitions of Edwin L. Meek and 7 other citizens of Greensburg; C. F. Fred, Omer Stoner, R. R. Morgan, and 19 other citizens of McCordsville; and of C. W. Chadwick, R. M. Hogue, Jay Smith, and 155 other citizens of Knox County, all in the State of Indiana, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented memorials of Linton Aerie, No. 578, Fraternal Order of Eagles, of Linton, of the German Alliance Societies, embracing over 150 societies, of the State of Indiana, and of the Central Labor Union of Indianapolis, all in the State of Indiana, remonstrating against the passage of the so-called Kenyon-Sheppard liquor bill, which were ordered to lie on the table.

VOCATIONAL EDUCATION.

Mr. PAGE. Mr. President, I hold in my hand a memorial, and I ask the indulgence of the Senate for just one minute while I explain its scope.

There was held at Philadelphia last week a very large gathering of prominent educators from different sections of the country to consider the question of industrial education. It was held under the auspices of the National Society for the Promotion of Industrial Education. Their gathering lasted for two or three days, and I understand the principal feature of the meeting of the national society was the discussion of Federal aid for industrial education. They adopted resolutions by unanimous consent and have sent them to me for introduction into the Senate as a memorial.

In view of the great prominence of the organization and the fact that the resolutions are very brief, I ask that they be read and referred to the Committee on Agriculture and Forestry.

The PRESIDENT pro tempore. The Secretary will read the resolutions.

The resolutions were read, as follows:

(Resolutions passed by the National Society for the Promotion of Industrial Education at its annual banquet in the city of Philadelphia on the evening of December 5, 1912.)

The National Society for the Promotion of Industrial Education, in annual convention at Philadelphia, facing the great need of widespread vocational education for this country, recognizing that immediate steps must be taken in each of the States to begin this work in an effective way, and believing that Federal aid and encouragement are necessary in order to induce the States to take up the work in such a way that our national prosperity and the welfare of our workers may be continued and assured, do hereby resolve and affirm:

That this need is so pressing and the exigencies of the industrial situation are so great as to demand the passage of Senate bill No. 3, known as the Page bill, by the present Congress.

This measure is fully comprehensive. It provides for the three great elements in the development of the country—the agricultural worker, who is to make the soil yield more abundantly: the industrial worker, who by his greater intelligence and skill is to reduce waste and increase productive efficiency; and the home maker, who is the supreme conserver of American civilization.

The Page bill supplements the Morrill Act, which has done so much for the profession of engineering and for the higher training in agriculture by encouraging through national grants the vocational training of those who toil in the home and in the trades and industries as well as on the farm.

The Page bill extends the liberality of the Government, which has been displayed so wisely in the training of the mature farmer, to the preparation of men and women, boys and girls, to meet the varied needs of productive employments in towns and cities as well as in the rural districts.

Therefore we petition the honorable Senate of the United States to give immediate and favorable consideration to said Senate bill No. 3.

The PRESIDENT pro tempore. The bill having been reported, the resolutions will lie on the table.

FUNERAL EXPENSES OF THE LATE VICE PRESIDENT.

Mr. BRISTOW, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution 396, submitted by himself on the 3d instant, reported it without amendment, and it was considered by unanimous consent and agreed to, as follows:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay from the miscellaneous items of the contingent fund of the Senate the actual and necessary expenses incurred by direction of the President pro tempore (under S. Res. No. 384, Aug. 17, 1912) in arranging for and attending the funeral of the late Vice President of the United States and President of the Senate, JAMES S. SHERMAN, at Utica, N. Y., on the 2d of November, 1912, upon vouchers to be approved by the Committee to Audit and Control the Contingent Expenses of the Senate.

FUNERAL EXPENSES OF THE LATE SENATOR HEYBURN.

Mr. BRISTOW, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution 394, submitted by Mr. BORAH on the 3d instant, reported it without amendment, and it was considered by unanimous consent and agreed to, as follows:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay from the miscellaneous items of the contingent fund of the Senate the actual and necessary expenses incurred by the committee appointed by the Vice President in arranging for and attending the funeral of the late Senator WELDON B. HEYBURN from the State of Idaho, vouchers for the same to be approved by the Committee to Audit and Control the Contingent Expenses of the Senate.

FUNERAL EXPENSES OF THE LATE SENATOR RAYNER.

Mr. BRISTOW, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution 395, submitted by Mr. SMITH of Maryland on the 3d instant, reported it without amendment, and it was considered by unanimous consent and agreed to, as follows:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay from the miscellaneous items of the contingent fund of the Senate the actual and necessary expenses incurred by the committee appointed by the President pro tempore of the Senate in arranging for and attending the funeral of the late Senator ISIDOR RAYNER from the State of Maryland, vouchers for the same to be approved by the Committee to Audit and Control the Contingent Expenses of the Senate.

AMELIA WISSMAN.

Mr. BRISTOW, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution 399, submitted by Mr. CULLOM on the 4th instant, reported it without amendment, and it was considered by unanimous consent and agreed to, as follows:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay out of the contingent fund of the Senate to Amelia Wissman, mother of Franklin W. Wissman, late a skilled laborer in the Senate library, a sum equal to six months' salary at the rate he was receiving by law at the time of his death, said sum to be considered as including funeral expenses and all other allowances.

MARY P. PIERCE.

Mr. BRISTOW, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution 397, submitted by Mr. SMITH of Michigan on the 4th instant, reported it without amendment, and it was considered by unanimous consent and agreed to, as follows:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay out of the contingent fund of the Senate to Mary P. Pierce, widow of Edwin S. Pierce, late a skilled laborer in the Senate document room, a sum equal to six months' salary at the rate he was receiving by law at the time of his death, said sum to be considered as including funeral expenses and all other allowances.

MAMIE ELSIE.

Mr. BRISTOW, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution 398, submitted by himself on the 4th instant, reported it without amendment and it was considered by unanimous consent and agreed to, as follows:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay out of the contingent fund of the Senate to Mamie Elsie, widow of Alfred Elsie, late a laborer of the United States Senate, a sum equal to six months' salary at the rate he was receiving by law at the time of his death, said sum to be considered as including funeral expenses and all other allowances.

BILLS AND JOINT RESOLUTION INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. GALLINGER:

A bill (S. 7743) for the creation of the police and firemen's relief and retirement fund, to provide for the relief and retirement of members of the police and fire departments, to establish a method of procedure for such relief and retirement, and for other purposes (with accompanying papers); to the Committee on the District of Columbia.

By Mr. STEPHENSON:

A bill (S. 7744) to authorize the establishment of additional aids to navigation at Ashland, Wis.; to the Committee on Commerce.

By Mr. WETMORE:
A bill (S. 7745) to authorize the improvement of the light station at Great Salt Pond, R. I.; to the Committee on Commerce.
By Mr. WARREN:
A bill (S. 7746) to provide for agricultural entry of oil lands; to the Committee on Public Lands.
By Mr. LODGE:
A bill (S. 7747) for the relief of Charles Dudley Daly; to the Committee on Military Affairs.
By Mr. MARTINE of New Jersey:
A bill (S. 7748) to authorize the completion of the reestablishment of Passaic Light and Fog-Signal Station, Newark Bay, N. J.; to the Committee on Commerce.
By Mr. LEA:
A bill (S. 7749) granting an increase of pension to John J. Wolfe; to the Committee on Pensions.
By Mr. JOHNSON of Maine:
A bill (S. 7750) to authorize the establishment of a light at or near Dog Island, entrance to St. Croix River, Me.; to the Committee on Commerce.
By Mr. FOSTER:
A bill (S. 7751) to authorize aids to navigation and other works in the Lighthouse Service, and for other purposes; to the Committee on Commerce.
By Mr. PAGE (for Mr. DILLINGHAM):
A bill (S. 7752) granting a pension to Henry Gunhouse (with accompanying paper); to the Committee on Pensions.
By Mr. BURTON:
A bill (S. 7753) to authorize aids to navigation and other works in the Lighthouse Service, and for other purposes; to the Committee on Commerce.
By Mr. SMOOT:
A bill (S. 7754) for the relief of Joseph Hodges; to the Committee on Public Lands.
A bill (S. 7755) granting an increase of pension to Adolph Lochwitz (with accompanying paper); to the Committee on Pensions.
By Mr. BRISTOW:
A bill (S. 7756) granting an increase of pension to Michael Hoffman (with accompanying paper); to the Committee on Pensions.
By Mr. PERKINS:
A bill (S. 7757) to authorize aids to navigation and other works in the Lighthouse Service, and for other purposes;
A bill (S. 7758) to authorize aids to navigation and other works in the Lighthouse Service, and for other purposes;
A bill (S. 7759) to authorize aids to navigation and other works in the Lighthouse Service, and for other purposes; and
A bill (S. 7760) to authorize aids to navigation and other works in the Lighthouse Service, and for other purposes; to the Committee on Commerce.
By Mr. SMITH of Michigan:
A bill (S. 7761) to authorize aids to navigation and other works in the Lighthouse Service, and for other purposes; to the Committee on Commerce.
By Mr. NELSON:
A bill (S. 7762) to authorize the establishment of a light station on Navassa Island, in the West Indies;
A bill (S. 7763) to authorize the construction and equipment of a lighthouse tender for general service;
A bill (S. 7764) to authorize the purchase of necessary additional land for light stations and depots of the Lighthouse Service, and for other purposes; and
A bill (S. 7765) to authorize aids to navigation and other works in the Lighthouse Service, and for other purposes; to the Committee on Commerce.
By Mr. McLEAN:
A bill (S. 7766) granting an increase of pension to Martha E. P. Blodgett (with accompanying paper); to the Committee on Pensions.
By Mr. SMITH of Maryland:
A bill (S. 7767) for the relief of G. L. Taneyhill; to the Committee on Military Affairs.
A bill (S. 7768) for the relief of the trustees of the Quinn African Methodist Episcopal Church, of Frederick, Md.; to the Committee on Claims.
By Mr. FLETCHER:
A bill (S. 7769) to authorize the establishment of a depot for the Sixth Lighthouse District; to the Committee on Commerce.
By Mr. GALLINGER:
A joint resolution (S. J. Res. 144) authorizing payment of December salaries to officers and employees of the Senate and House of Representatives on the day of adjournment for the holiday recess; to the Committee on Appropriations.

DEATH OF THE VICE PRESIDENT.

Mr. ROOT submitted the following resolution (S. Res. 408), which was read, considered by unanimous consent, and unanimously agreed to:

Resolved, That the Senate of the United States acknowledges with grateful appreciation the sympathy of the Senate of Brazil in the loss suffered by the American Government and people in the lamented death of Vice President SHERMAN; and it begs the Senate of Brazil to accept the assurance of its most respectful consideration and friendship.

The Secretary is directed to transmit a copy of this resolution to the first secretary of the Senate of Brazil.

CAUSES OF THE RISE IN PRICES (S. DOC. NO. 980).

Mr. LODGE. I ask to have printed as a Senate document a short article by J. A. Hobson, taken from the Contemporary Review, on the causes of the rise in prices.

The PRESIDENT pro tempore. Without objection, it will be so ordered.

LAND AT HELENA, ARK.

Mr. SMITH of Arizona submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3436) "granting to Phillips County, Ark., certain lots in the city of Helena for a site for a county courthouse," having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendment.

REED SMOOT,
KNUTE NELSON,
MARK A. SMITH,
Managers on the part of the Senate.

JOS. T. ROBINSON,
JAMES M. GRAHAM,
ANDREW J. VOLSTEAD,
Managers on the part of the House.

The report was agreed to.

HOLIDAY RECESS.

Mr. WARREN. I ask to take up House concurrent resolution No. 66, which came over yesterday, relative to the Christmas holiday recess.

The PRESIDENT pro tempore. If there are no concurrent or other resolutions, morning business is closed. The Senator from Wyoming asks unanimous consent to take up for consideration House concurrent resolution No. 66, coming over from the other House, which the Secretary will read.

The Secretary read the concurrent resolution; and there being no objection, it was considered by unanimous consent and agreed to as follows:

Resolved by the House of Representatives (the Senate concurring), That when the two Houses adjourn on Thursday, December 19, 1912, they stand adjourned until 12 o'clock m. on Thursday, January 2, 1913.

HISTORY OF SENATE DESKS.

Mr. MARTINE of New Jersey and Mr. CRAWFORD addressed the Chair.

The PRESIDENT pro tempore. The Senator from New Jersey.

Mr. MARTINE of New Jersey. I beg the attention of the Senate for a moment. I find on my desk an amendment submitted by the distinguished Senator from Massachusetts [Mr. LODGE], which reads as follows:

The Assistant Doorkeeper of the Senate is hereby authorized and directed to compile a history of the desks in the Senate Chamber, and the sum of $500, or so much thereof as may be necessary, is hereby appropriated to meet the cost of appropriate engraved plates for each desk.

The PRESIDENT pro tempore. The Chair would ask the Senator from New Jersey if he rises to any resolution or does he desire that a resolution be laid before the Senate?

Mr. LODGE. That is a proposed amendment.

Mr. MARTINE of New Jersey. It is a proposed amendment. I desire simply to speak to the amendment, if it is in order.

The PRESIDENT pro tempore. To what matter does the Senator desire to address himself? The Senate has not taken up any bill.

Mr. LODGE. I rise to a question of order.

The PRESIDENT pro tempore. The Senator from Massachusetts will state it.

Mr. LODGE. This is not a resolution; this is an amendment to the legislative, and so forth, appropriation bill——

Mr. MARTINE of New Jersey. It is an amendment offered by the Senator from Massachusetts.

Mr. LODGE. Which has been referred to the Committee on Appropriations.

Mr. MARTINE of New Jersey. I ask the privilege, then, to speak to the amendment that is proposed.

The PRESIDENT pro tempore. The Senator from New Jersey asks the privilege of addressing the Senate upon the matter which he has indicated. Is there objection? The Chair hears none, and the Senator will proceed.

Mr. MARTINE of New Jersey. Mr. President, in speaking to the amendment that I have read, I beg to say that I have tried to picture in my mind the profound interest future generations will take in reading the marvelous history of this great country, the bloody contest that was waged for liberty, and the sufferings and privations of our fathers. They will read of the splendid bravery of Mad Anthony Wayne; they will be able to fairly hear the clarion voice of Capt. Lawrence crying "Don't give up the ship"; they will also read with breathless interest of the bravery of Mollie Pitcher at the Battle of Monmouth; they will also read of the construction of this most beautiful Capitol and the recitals of history that the corner stone was laid by the Father of his Country, the immortal George Washington. With what thrilling emotions they will read of our internecine strife, and they also will read with great satisfaction of the reconciliation and union forever of all the sections of our beloved country.

But, Mr. President, as great as are the subjects I have above cited, how weak and paltry they will seem in comparison to the thrill that will come to the future reader of history, when he comes to the chapter, "History of the desks and cuspidors of the Senate of the United States." [Laughter.] Oh, that we might have but a tracing to-day of the desks of the ancient Greeks and Romans! What stories they would tell of that age and time! How derelict were their historians!

If we could only know whether the mighty Demosthenes stood or sat while delivering those superb orations, whether his desk was made of olive wood, cedar, or stone, how valuable it would be! Oh, that a LODGE might have lived in that day! [Laughter.]

But the "History of the desks in the Senate of the United States!" That chapter will tell of heel prints that will reflect the artistic genius of the bootmaker from the North, the South, the East, and the West of our great country. [Laughter.] Then, too, I am informed by the carpenter of the Capitol of a fact that I feel is quite generally unknown, a fact which will show the advance of our civilization; for in the early days of our country, I am told, the artistic genius of the occupant was made apparent through jack-knife designs carved upon his desk. This is now all changed. Their surface to-day reflects the cabinetmakers' art, the polish, the luster of the cultivated period in which we live. Truly, it is great to contemplate.

But seriously, Mr. President, with bread and butter so high in price to the toiler and the breadwinner, I must vote "No" on the amendment proposed by the distinguished and cultivated Senator from Massachusetts.

Mr. LODGE. Mr. President, as I introduced the amendment which has awakened the delightful humor of the Senator from New Jersey [Mr. MARTINE], I think I ought to say a word in explanation.

The proposition of the amendment was to do what some Senators have done of their own accord. The desk directly in front of me has its history. The design is to put a little plate on the different desks giving a list of those who had occupied them. Many of these desks were in use in the old Senate Chamber, which is now occupied by the Supreme Court of the United States. It has seemed desirable to many Senators—in fact the idea did not originate with me, but with our late colleague, Senator Heyburn, of Idaho—that it would be a very interesting thing to have a plate on each desk showing who its occupants had been. That was the harmless purpose of this amendment.

It may not be of the slightest interest to future generations to know that a certain desk was occupied by me or by the Senator from New Jersey, but I think it will be of some interest to future generations if a memorial is kept of the desks that were occupied by men like Webster, Clay, and Calhoun. It is only to preserve those historical memorials, which are always worth preserving if we have a reverence for the history of our country, that this suggestion of a little plate for each desk was brought to me, and I took great pleasure in introducing the amendment upon which the Committee on Appropriations will take action at the proper time.

LINCOLN MEMORIAL.

Mr. CULLOM. I desire to call up the concurrent resolution reported on yesterday by the Senator from New York [Mr. ROOT] from the Committee on the Library, and to ask for its present consideration.

The PRESIDENT pro tempore. The Senator from Illinois asks for the present consideration of a concurrent resolution which will be read by the Secretary.

The concurrent resolution (S. Con. Res. 32) was read, considered by unanimous consent, and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That the plan, design, and location for a Lincoln Memorial, determined upon and recommended to Congress December 4, 1912, by the commission created by the act entitled "An act to provide a commission to secure plans and designs for a monument or memorial to the memory of Abraham Lincoln," approved February 9, 1911, be, and the same are hereby, approved.

Mr. CULLOM subsequently said: I ask unanimous consent that the report submitted by the Senator from New York [Mr. ROOT] in connection with the Lincoln Memorial be printed in the RECORD. It is very brief.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The report, submitted by Mr. ROOT on the 12th instant, is as follows:

The Committee on the Library, to which was referred the message of the President of December 5, 1912, transmitting a report of the Lincoln Memorial Commission, have considered and return herewith the message and report, and recommend the adoption of the following resolution:

"*Resolved by the Senate (the House of Representatives concurring)*, That the plan, design, and location for a Lincoln Memorial determined upon and recommended to Congress December 4, 1912, by the commission created by the act entitled 'An act to provide a commission to secure plans and designs for a monument or memorial to the memory of Abraham Lincoln,' approved February 9, 1911, be, and the same are hereby, approved."

The act of February 9, 1911, provided for the erection of a monument in the city of Washington in memory of Abraham Lincoln, and created a commission to determine upon a location and design, subject to the approval of Congress.

The commission now reports that it has determined upon a location on the public land of the United States on the banks of the Potomac; and upon a design, photographs of which are transmitted.

The object of the proposed resolution is to accept this decision.

The present members of the commission are: President TAFT, Senator CULLOM of Illinois, Senator WETMORE of Rhode Island, Senator MARTIN of Virginia, Speaker CLARK, Representative CANNON of Illinois, Representative MCCALL of Massachusetts.

It appears that the commission held 16 meetings and fully considered numerous suggested or possible locations and various designs, and that, as directed by the statutes, it called for and received advice of the Commission of Fine Arts, which, after exhaustive study, agrees with the conclusion now reached.

The report says:

"The commission after a careful examination and discussion of the design presented by Mr. Bacon has adopted it unanimously and recommends that Congress approve the construction of the memorial upon the selected site in Potomac Park in acordance with the plans and designs of Mr. Bacon."

All the members of the commission join in the report.

Acceptance of this decision will bring performance of the long delayed and neglected duty to erect a monument to Abraham Lincoln in this city.

The failure to bring to success any of the repeated attempts to secure such a monument is not altogether creditable.

On the 29th of March, 1869, Congress incorporated a "Lincoln Monument Association," of which the Treasurer of the United States was treasurer. Some money was raised, plans and designs were procured, but the enterprise languished, the chief actors passed away, and an insignificant sum remains in the Treasury of the United States.

On the 28th of June, 1902, Congress created a commission to secure plans and designs for such a monument, but that commission never agreed and never reported.

In the meantime and before the present act was passed many bills for a monument were from time to time introduced in Congress. Some of them died in committee and some were reported and never acted upon.

At last we have a definite conclusion, joined in after great consideration by eminent representatives of both Houses of Congress, by the Executive, and by the trained and experienced advisers whom they were directed by law to consult.

It has long been the policy of our Government to set up in the Capital City suitable memorials to the great men whom the Nation holds in honor.

A memorial to Grant is nearly completed. We already have statues of Sherman, Sheridan, Logan, Thomas, McPherson, McClellan, Hancock, Rawlins, Du Pont, and Farragut of the Civil War period.

Appropriations have passed the Senate for Jefferson and Hamilton memorials. Washington, Marshall, La Fayette, Nathanael Greene, Rochambeau, Von Steuben, Kosciuszko, Pulaski, Paul Jones, Jackson, Scott, and Webster of earlier periods are commemorated.

For Lincoln alone our gratitude and devotion have seemed too weak to overcome small differences of opinion and taste. There must come an end some time to discussion and a yielding of individual preference to the general judgment if there is ever to be action. It is not tolerable that the remaining survivors of the generation that knew Lincoln should pass away and leave no memorial of their reverence and love for him in the city which was the scene of his service and sacrifice.

To reject the conclusions of this commission apparently would prevent the erection of any Lincoln monument whatever.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. I move that the Senate resume the consideration of House bill 19115.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts.

Mr. CRAWFORD. Mr. President, when the Senate discontinued the consideration of this bill yesterday the amendment

offered by the Senator from New York [Mr. O'GORMAN] to incorporate into the bill an item in favor of the estate of Charles Backman to refund certain taxes paid upon distilled spirits was before the Senate, and I had not concluded my remarks in relation to it. I desire to add to what was said yesterday that I have examined two or three cases cited in the brief which was supplied to the Senator from New York by the attorney as justification for the adoption of this amendment, and they have absolutely no bearing upon the question whatever. One case is cited from Supreme Court of the United States Reports 153, on page 457, and is a case which involves nothing more nor less than the right to recover interest where the principal allowed was not at all in dispute. One other case cited from the United States Circuit Court for the Eastern District of Pennsylvania has absolutely nothing to do with the state of facts presented here. It was a case that involved the recovery of interest where the allowance of the principal was not at all in dispute.

As I said yesterday, after the new law was passed the officers of the Government continued for a period to allow a rebate or reduction in taxes upon an estimate made as to the amount of liquors which might have leaked or evaporated while in warehouse. The question of their right to do that was submitted to the Attorney General of the United States, and in an opinion rendered by him he held that under that new law they should collect the entire tax without this reduction. It was after an order of the Treasury Department, based upon this decision of the Attorney General, had gone into effect that tender was made and this claim arose.

The Ridgway case and the group of claims for which appropriation was made in 1886 was after the Court of Claims had decided against Ridgway instead of deciding in his favor. That was in 1886, and no bill was introduced for the relief of this claimant until 1892, nearly a quarter of a century after the claim arose, if it arose at all.

Appended to the papers handed me is a letter from the Acting Secretary of the Treasury, Mr. Curtis, to the Committee on Claims of the House of Representatives, dated August 10, 1912. That was after the report on this bill had been made. This letter from the Secretary of the Treasury in some respects is a rather remarkable communication. It was not called for by the Committee on Claims; it was not written because of any inquiry or doubt that existed in the minds of the members of that committee, but the attorney for this claimant goes to the clerk of the Committee on Claims and suggests to him to write a letter to the Treasury Department asking for certain information. In response to that letter comes this letter, which undertakes to say that the question has been passed upon repeatedly, similar claims allowed, favorable reports made, and so forth. I have no personal knowledge upon the subject, but I doubt if the head of the great Treasury Department, with knowledge, wrote this letter. My own suspicion is that the letter which the attorney requested the clerk of the Committee on Claims to write, drew it out, and that some clerk in the Treasury Department probably wrote it and put it on the desk of the Assistant Secretary and secured his signature to it, because apparently no examination was made there of the real facts in this case; that there was a decision by the Attorney General of the United States that the law of 1868 prevented the rebate of these taxes; that a decision had been rendered by the Court of Claims against Ridgway instead of for him; that no bill for the relief of this claimant had been offered in Congress until practically a quarter of century after the cause of action arose; that the House neglected to put it in the bill and the Senate committee rejected it. I submit that under the statement of fact in the record the claim should be rejected.

I call for a vote on the amendment, and ask that the committee be sustained.

The PRESIDING OFFICER (Mr. LEA in the chair). The Chair is informed by the Secretary that the pending amendment is one offered by the Senator from Massachusetts [Mr. LODGE].

Mr. CRAWFORD. No; I do not so understand it. Is it not the amendment proposed by the Senator from New York [Mr. O'GORMAN] to incorporate in this bill the item in favor of the estate of Backman for the sum of $5,000? The Senator from Massachusetts gave way, saying his amendment would have to lie over until to-day because the amendment which I proposed to it would have to be printed. On that account he asked to have it go over, and in the meantime the Senator from New York, with the knowledge of the Senator from Massachusetts, presented his amendment. I will ask the Senator from New York if that is not his recollection.

Mr. O'GORMAN. That is a correct statement of what transpired yesterday.

Mr. CRAWFORD. The Senator from New York says it is a correct statement.

Mr. O'GORMAN. I may be permitted to say an additional word in reference to this amendment.

Previous to April 14, 1869, a statute was passed preventing the internal-revenue officers from making any allowance for leakage when spirits were taken out of bond. Under the statute of 1868 that rule was to become operative on the 14th of March, 1869.

This claim went before the Court of Claims and was tried, and the court made certain findings, which must now be accepted as the fact. Among these facts it is stated that some few weeks previous to the 14th of April, 1869, the owner of the spirits applied to withdraw them from bond, but owing to the internal-revenue officers not having the necessary revenue stamps there was a delay of a few weeks, which took the actual delivery of the liquors from bond over the date in question, namely, the 14th of April.

As I say, after the 14th of April, 1869, no allowance was to be made for leakage. The entire amount paid by Backman, the owner of the liquor, was about $44,000. Subsequently it was disclosed that if he had been allowed for the leakage he should have had about $5,000 returned to him.

Now, undoubtedly the law of 1868 prevented any allowance for leakage after the 14th of April, 1869, and the only equities, indeed the equity that is presented in this claim, is that the delay which brought the delivery of the liquor in question over the 14th of April, 1869, was caused by the internal-revenue officers being unable to furnish the revenue stamps when they were asked for about two weeks before the 14th of April, 1869.

Now, reference has been made to authorities, and perhaps they may be well disregarded, because this entire controversy is found in the single circumstance which I now present to the Senate—that the delay which brought the delivery of this liquor beyond the 14th of April, 1869, was caused by the internal-revenue officers' inability to furnish the necessary revenue stamps, aggregating $45,000, when the owner of the liquor presented himself before the revenue officers and asked for the stamps.

It is true that no effort was made to secure the refund of this five thousand and odd dollars for many years; perhaps 20 or 25 years; and then from time to time afterwards bills were introduced similar to this proposed amendment. I remember myself 20, surely 18, years ago the committee in the House approved the same, and I am informed that in the last Congess the Committee on Claims approved this claim. That is offered as explanation why there was no appearance before the committee during this Congress. I assume the statement I make is accurate—it was conveyed to me by representatives of the claimant—that at the last Congress the Committee on Claims approved this bill.

But without regard to what has been done in the past, the naked and single question is, considering the fact that the claimant would not have been charged this $5,000 if the internal-revenue officers had had the stamps available when the owner of the liquor presented himself, is it fair or just, in view of those circumstances, that this claimant should have his claim judged by the new rule which became operative on the 14th of April, 1869? That is the sole question with respect to the merits of this claim.

Now, the claimants think it a great injustice that they should be subjected to a rule which was not in force when the owner of the liquor made a demand for the necessary revenue stamps and had the money, $44,000 or $45,000, ready for that purpose. I therefore ask that the bill as reported by the Committee on Claims be amended by the insertion of this provision giving to the executor of the estate in question the sum of $5,335.71.

Mr. CRAWFORD. Mr. President, replying to the Senator from New York, I frankly admit that his statement is correct as to these parties making application to the internal-revenue office for the release of these spirits before April 14, 1869, and that they were not delivered at that time because of the fact that the revenue officers did not have the revenue stamps. I admit that frankly, because, as I recollect, there is a finding from the Court of Claims to that effect. But—and I think it is entirely unintentional, of course—the Senator from New York is in error in another statement which he made, and that was that the law of 1868 did not go into effect until April 14, 1869. The law of 1868 went into effect upon its approval and was the law at the time the internal-revenue officers did not release his liquor because he did not have the revenue stamps.

Mr. O'GORMAN. Mr. President.

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from New York?

Mr. CRAWFORD. I do.

Mr. O'GORMAN. There is no dispute between the Senator from South Dakota and myself with respect to the last statement. Of course the statute of 1868 went into effect immediately upon its enactment, but the procedure of the department under that statute was changed on the 14th of April, 1869; and under the statute and previous to the 14th of April, 1869, internal-revenue officers understood that they had the right to make an allowance for leakage or evaporation when liquors were taken from bond. I believe we are in accord on that proposition.

Mr. CRAWFORD. We are in absolute agreement with the statement that has been made by the Senator.

Mr. O'GORMAN. May I be permitted to make an additional statement at this time?

Mr. CRAWFORD. Certainly.

Mr. O'GORMAN. I assume, in view of the conceded fact, that Congress would not hesitate a moment to allow the relief requested under the facts in the case if there had been a prompt and diligent and early effort to secure the necessary legislation. It is a conceded fact, I believe—the Senator from South Dakota has stated it, and I believe it is accurate—that no attempt was made to secure remedial legislation regarding this claim until 23 or 25 years afterwards. I may say in passing that I have no sympathy with stale claims, and yet there may be a case now and then when a suitable or satisfactory excuse may be offered with respect to the delay.

That brings me to the suggestion that the only reason which would justify this body refusing the desired relief is that the parties slept on their rights during this long period. Of course if you think that is a sufficient reason to withhold the relief you will support the attitude of the chairman of the Claims Committee. If you do not think it a sufficient reason, then, on the merits, eliminating the suggestion as to delay, I can conceive of no good reason why the claimant should not get what he asks for when it is conceded—as it has just been conceded by the chairman of the Committee on Claims—that the circumstance which brought the delivery of this liquor up to the 14th of April, 1869, was the inability of the revenue officers to furnish the necessary revenue stamps when the demand was made upon them two or three weeks before.

Mr. CRAWFORD. Mr. President, upon the merits of the case I can not agree with the Senator from New York, and I desire to say that he has been eminently fair and just in his attitude toward the proper consideration of claims of this character.

But a simple statement shows this: A law had been passed in July, 1868, which made it absolutely obligatory on the part of this claimant to pay the whole $45,000 taxes instead of $40,000 taxes; and that law went into effect in July, 1868. The Treasury Department misconstrued that law or failed up until April, 1869, to enforce it at the time it became the law binding upon internal-revenue officers.

Then the question is whether the Government did not have a right to come back upon these men who had escaped paying what they ought to have paid and compel them to pay the balance. It does not make the transaction lawful because the Treasury Department absolutely failed to enforce a law which was the law at the time and which required the payment of the $45,000 taxes.

Now, when this man went over to get his spirits out of the warehouse, he might have settled, because the officers of the Treasury Department were not enforcing the law, for $5,000 less than he actually did; but how does the fact that, because of the mere circumstances that he could not get his revenue stamps at that time and had to come back on the 14th of April—the Attorney General in the meantime having given his opinion that these men were liable for all these taxes without any reduction and the Treasury Department having in the meantime promulgated this order that after April 14, 1869, they must pay the whole amount—give him any right to ask that this money be taken out of the Treasury of the United States and paid to him when it was just as unlawful to allow for leakage before April 14, 1869, as it was after April 14, 1869? Because of the mere incident that he might have obtained it wrongfully before the 14th of April, if the officers had had the revenue stamps by which to aid him to get it wrongfully does not relieve him, because he would have been violating absolutely the law which went into effect in July, 1868, previous. Now, it seems to me that is absolutely logical.

Mr. O'GORMAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from New York?

Mr. CRAWFORD. I do; certainly.

Mr. O'GORMAN. Is it not the fact that allowance was made for leakage and evaporation in every barrel of liquor taken from bond between the date of the enactment of the 1868 statute and the 14th day of April, 1869?

Mr. CRAWFORD. That I do not know, but to a certain extent it was done. However, the Attorney General, when the statute was referred to him, decided that it was done unlawfully and against the statute.

Mr. O'GORMAN. And from that time on there was a change in the procedure observed by the internal-revenue officers?

Mr. CRAWFORD. Yes; that is true; and when this man——

Mr. O'GORMAN. Is it not a fact, may I be permitted to ask the Senator from South Dakota——

Mr. CRAWFORD. Certainly.

Mr. O'GORMAN. Is it not a fact that if two weeks before the 14th of April, 1869, the internal-revenue officers had had the revenue stamps on hand, the tax imposed upon this claimant would have been $5,000 less than he actually paid?

Mr. CRAWFORD. Not lawfully; but he would have succeeded under the practice that had been followed, in violation of this statute, in getting $5,000 that did not belong to him and which belonged to the Government, and to which procedure the Attorney General put a stop by his construction of this statute and which the department enforced on and after April 14 by its order.

Now, there can not be any escape from that. These men were getting a reduction in violation of the statute before that time, a reduction to which they were not entitled; and because the officers were violating this statute and giving these reductions in clear violation of the statute before that time, and this man did not happen to have the good luck to get what did not belong to him before that time, because the officers did not have the revenue stamps, does it make it just for him to get that exemption, when the statute did not give it to him because he did not have the good fortune to find the internal-revenue officers in possession of the revenue stamps, so that they could violate the statute before April 14, 1869?

There is no escape from that, Mr. President, and I ask the Senate to reject the amendment.

The PRESIDING OFFICER. The Secretary will restate the amendment.

The SECRETARY. On page 268, after line 13, insert:

To Dean Sage, executor of the estate of Charles Backman, deceased, the sum of $5,335.71.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from New York. [Putting the question.] The ayes seem to have it.

Mr. CRAWFORD. I demand the yeas and nays. First, I ask for a call of the Senate.

The PRESIDING OFFICER. The absence of a quorum is suggested, and the Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Gallinger	Newlands	Smith, S. C.
Bacon	Gronna	O'Gorman	Smoot
Bailey	Jackson	Oliver	Stephenson
Brandegee	Johnston, Ala.	Overman	Stone
Bristow	La Follette	Page	Swanson
Brown	Lea	Penrose	Thornton
Bryan	Lodge	Perkins	Tillman
Burnham	McLean	Perky	Townsend
Clark, Wyo.	Martin, Va.	Pomerene	Warren
Clarke, Ark.	Martine, N. J.	Reed	Wetmore
Crane	Massey	Smith, Ariz.	
Crawford	Myers	Smith, Md.	
Fletcher	Nelson	Smith, Mich.	

Mr. PAGE. I regret to be obliged to announce the continued illness of my colleague [Mr. DILLINGHAM]. He is not able to attend the sessions of the Senate.

The PRESIDING OFFICER. Forty-nine Senators have answered to their names. A quorum of the Senate is present.

Mr. CRAWFORD. I will ask the Chair to put the vote again with reference to the adoption of the amendment of the Senator from New York.

The PRESIDING OFFICER. The Secretary will restate the amendment.

Mr. SMOOT. Let the amendment be read.

The SECRETARY. On page 268, after line 13, in the New York items, insert:

To Dean Sage, executor of the estate of Charles Backman, deceased, the sum of $5,035.71.

The PRESIDING OFFICER. The Senator from South Dakota asks for the yeas and nays on agreeing to the amendment.

Mr. CRAWFORD. I ask that the question be put again.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from New York [Mr. O'GORMAN].

The amendment was rejected.

Mr. CRAWFORD. The Senator from Nevada [Mr. NEWLANDS] desired to present an amendment to the bill, and if he is ready to be heard now I should like very much to have it taken up.

Mr. GALLINGER. The Senator from Nevada is not in his seat.

Mr. CRAWFORD. He is in the Chamber.

Mr. GALLINGER. I have a very trifling amendment which I think the Senate will agree to without objection, if the Senator will permit me to offer it.

Mr. CRAWFORD. Very well.

Mr. GALLINGER. I will take the liberty of calling the Senator's attention to the subhead on page 259:

Claims of officers of the United States Army for additional pay, commonly known as "longevity claims," so as to include the period of cadet service in the United States Military Academy at West Point.

I would move to amend that by adding "and enlisted service in the Regular Army." There are two claims——

Mr. CRAWFORD. That is true.

Mr. GALLINGER. I move that amendment on page 259, line 11, to strike out the period and insert the words "and enlisted service in the Regular Army."

Mr. CRAWFORD. There is no objection to that amendment.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 259, in the subheading, after the words "West Point," in line 11, insert "and enlisted service in the Regular Army."

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. CRAWFORD. While we are under that head, in behalf of the committee I offer an amendment. It is a longevity claim that came to the committee afterwards and is exactly like the others. I ask that it be adopted.

The PRESIDING OFFICER. The amendment will be read.

The SECRETARY. On page 266, after line 5, insert the words "North Carolina" and the following:

To Charles J. Allen, of Buncombe County, $2,353.24.

The amendment was agreed to.

Mr. LODGE. If there are no other amendments, Mr. Presidents, I ask that we return to the amendment which I offered yesterday covering the French spoliation claims, which was temporarily laid aside. It has been read. The Senator from South Dakota has offered an amendment to it, which I ask to have read.

Mr. CRAWFORD. In this connection I wish to say that I am a little disappointed in the manner in which my proposed amendment was printed. It does not show where the changes were made, so that one can not tell from an examination of the amendment where it made reductions and what they were, and where it would strike out names what they were. I will ask to have my amendment to the amendment reprinted in that way, because it will be quite necessary, whatever disposition is made now of this matter, to have the record so that it will be easily understood.

Mr. LODGE. I am very glad the Senator is going to do that.

The PRESIDING OFFICER. Without objection the request of the Senator from South Dakota will be complied with and the amendment will be reprinted as suggested.

Mr. LODGE. It will be reprinted as suggested by the Senator from South Dakota so as to show the precise changes made by his amendment in the one I offered.

Mr. CRAWFORD. As introduced a line was drawn through the part stricken out and it had the amounts written out instead of giving them in figures. As presented here it is quite different in its appearance from what I supposed it would be.

Mr. LODGE. I wish to suggest one correction which I think ought to be made at the beginning. It says "strike out all after line 21, page 2." It strikes out merely the descriptive lines on page 2 of the amendment; it strikes out lines 20 and 21, which read:

On the vessel schooner Hetty, William Manson, master, namely.

Mr. CRAWFORD. Then lines 20 and 21 should not be stricken out.

Mr. LODGE. They should not be stricken out. That is merely descriptive.

Mr. CRAWFORD. The amendment should begin with line 20.

Mr. LODGE. Precisely.

Mr. CRAWFORD. That was an inadvertence. That is correct. I am glad the Senator has called my attention to it.

Mr. LODGE. If we have printed in that way my amendment with the changes shown as proposed by the amendment of the Senator from South Dakota, then we shall know exactly what we are dealing with. In that case, Mr. President, I shall ask that the amendment go over until to-morrow when we can have a new print.

Mr. CRAWFORD. Mr. President, we have now, with the exception of the French spoliation claims, the amendment the Senator from Alabama [Mr. JOHNSTON] proposed, and one which the Senator from Nevada [Mr. NEWLANDS] has submitted. With those exceptions we have disposed of all the amendments which have been presented. I understand there are a few other amendments, but I do not understand that they involve large amounts.

Mr. PENROSE. I suppose the Senator refers to the amendments I have been talking to him about. I have one or two very simple matters that I should like to submit to the Senator before I even offer them on the floor of the Senate.

Mr. CRAWFORD. Very well, Mr. President. I called attention to that simply to get the situation before the Senate as to the bill. It seems to me that we have reached a point where we might agree upon a time to vote upon it. I am anxious that the bill shall be disposed of by the Senate before the holiday recess. If an agreement could be made as to some day when we might vote upon it before the holiday recess, I should like very much to have that done.

Mr. LODGE. I am ready to agree, as far as I am concerned, being interested in the French spoliation claims amendment. I do not desire to enter into a protracted debate on the French spoliation claims.

Mr. CRAWFORD. I know. The Senator has made that statement to me.

Mr. LODGE. The matter has been discussed here many times, and I think the Senate understands the amendment perfectly. Of course, if the amendment is to be attacked elaborately, it will be necessary for me to make some suitable reply and bring forward the facts; but I should be very glad if we could make an arrangement by which we could escape a protracted debate on that amendment, which might lead to a great deal of debate, as the Senator well knows.

Mr. CRAWFORD. I have not any disposition to thrash all that over again. I will ask unanimous consent that we agree to vote upon the bill and all amendments at the close of the morning business next Thursday.

The PRESIDING OFFICER. The Senator from South Dakota asks unanimous consent that an agreement be reached to vote upon the pending measure and all amendments on next Thursday at the close of the routine morning business. Is there objection?

Mr. SMITH of South Carolina. I should like to ask for information as to the French spoliation claims. Is that the particular feature upon which the bill is asked to go over with the amendment pending?

Mr. LODGE. That amendment is now pending, and it is going over simply to have a print made of the amendment to it offered by the Senator from South Dakota.

Mr. SMITH of South Carolina. So that all amendments pertaining to it will come up to-morrow.

Mr. LODGE. I suppose we shall dispose of the amendment before Thursday.

Mr. CRAWFORD. I hope that we shall dispose of all amendments in the meantime; that we will get them out of the way as fast as we can and not have them all dumped on us at that time. The Senator from Alabama [Mr. JOHNSTON] has an amendment. I hope we may be able to take that up yet this morning. I ask unanimous consent that we vote upon the pending amendment, all amendments offered, and on the bill, without debate, at the close of the routine morning business next Thursday. I do not know what day of the month it is.

Mr. LODGE. The 19th.

Mr. CRAWFORD. The 19th.

Mr. PENROSE. I would suggest to the Senator whether it would not be safer to fix the time at 1 o'clock. The morning business might be prolonged.

Mr. LODGE. I suggest that the debate shall close at 1 o'clock and then the bill and all amendments be voted upon.

Mr. CRAWFORD. Very well, I will put it that way—that all debate shall close and we shall vote on the bill and all amendments at 1 o'clock on Thursday, the 19th.

Mr. BRISTOW. I shall object to that.

Mr. SMITH of South Carolina. Do I understand that all amendments agreed upon to this bill by the Senate will go into conference, and whatever amendments are put into it will have to go to conference for final settlement? After all the amendments are added by the Senate it will go to conference?

Mr. CRAWFORD. There is objection, so that I abandon the request.

The PRESIDING OFFICER. Objection is made.

Mr. CRAWFORD. I would like to have the Senator from Alabama present his amendment.

Mr. JOHNSTON of Alabama. I am not prepared to go on with my amendment this morning. I will take it up to-morrow immediately after the amendment of the Senator from Massachusetts is concluded.

Mr. CRAWFORD. Is the Senator ready to go on with his amendment proposing to incorporate the French spoliation claims?

Mr. LODGE. I am perfectly ready to go on, but the Senator from South Dakota has offered a series of amendments to that amendment, and I should like to see those. I imagine that I shall accept them without further debate.

Mr. CRAWFORD. I have no disposition to take up the time of the Senate in presenting those amendments if it can be avoided. The Senator from Alabama is not ready with his amendment now, I understand.

Mr. JOHNSTON of Alabama. I am not ready now.

Mr. CRAWFORD. Is the Senator from Nevada in the Chamber?

Mr. BRISTOW. Mr. President, I do not understand that the Senator from South Dakota expects to accept the amendment offered by the Senator from Massachusetts [Mr. LODGE] even if the amendments which he has offered to the amendment are accepted.

Mr. CRAWFORD. Oh, no; I simply offer the amendments to the amendment to be acted on by the Senate. Of course, my personal attitude toward the French spoliation claims, except that I object to allowing certain insurance premiums and freight earnings as they are involved, is one of favor, but I am standing with the Committee on Claims. That committee, of which I am a part, considered this whole question and decided that it was inadvisable, on account of the sharp differences there, to incorporate the French spoliation claims in this bill; and, of course, I shall be loyal to the attitude taken by the majority of the committee. That, however, is neither here nor there. I am anxious to have some action taken by the Senate for or against the French spoliation claims amendment, so that we can dispose of it. The Senate will have to determine, of course, in its own way how long we shall discuss it, but I am anxious to get it up, with the idea of having action taken one way or the other.

Mr. LODGE. Mr. President, of course, if the ground is to be taken that we are not to be allowed to vote on the bill if the French spoliation claims are added, we can reach no agreement to vote on the bill.

The pending amendment is that relating to the French spoliation claims, and I ask for the reading of the amendments offered to that amendment by the Senator from South Dakota [Mr. CRAWFORD.]

The PRESIDING OFFICER. The Secretary will read the amendment to the amendment offered by the Senator from South Dakota.

Mr. CRAWFORD. What was the Senator's request?

Mr. LODGE. I want to have the Senator's amendment to my amendment read.

Mr. CRAWFORD. Mr. President, just a moment, please.

Mr. LODGE. If the Senator is going to take that ground——

Mr. CRAWFORD. Would it be possible to arrive at an agreement as to when we shall vote on the French spoliation claims amendment?

Mr. LODGE. Not without an agreement to vote on the bill.

Mr. CRAWFORD. Well, I wanted to find out what was the disposition of the Senator in regard to that.

The SECRETARY. It is proposed to strike out all after line 21, page 2, of said amendment and all of pages 3 to 82, both inclusive, and all of page 83 down to line 20, and insert in lieu thereof the following:

Payton S. Coles and David Stewart, administrators of John Stricker, $1,230.
On the vessel ship Washington, Aaron Foster, master, namely:
Lucy Franklin Read McDonnell, executrix, etc., of George Pollock, surviving partner of Hugh Pollock & Co., $830.
On the vessel sloop Two Friends, Peter Pond, master, namely:
Charles F. Adams, administrator of Peter C. Brooks, $1,250.
Seth P. Snow, administrator of Crowell Hatch, $700.
George G. Sill, administrator of William Leavenworth, $843.
On the vessel ship Sally Butler, Alexander Chisolm, master, namely:
Archibald Smith, administrator de bonis non of the estate of James Seagrove, deceased, $6,311.41.
On the vessel brig Neptune, Hezekiah Flint, master, namely:
Francis M. Boutwell, administrator of John McLean, deceased, $440.
Arthur D. Hill, administrator of Benjamin Homer, deceased, $880.
Thomas N. Perkins, administrator of John C. Jones, deceased, $880.
On the vessel ketch John, Henry Tibbetts, master, namely:
Hasket Derby, administrator of Elias Hasket Derby, $12,962.92.
On the vessel ship Ceres, Roswell Roath, master, namely:
Donald G. Perkins, administrator of Daniel Dunham, $6,688.61.
Donald G. Perkins, administrator of Alpheus Dunham, $6,003.84.
Edmund D. Roath, administrator of Roswell Roath, $684.77.
Asahel Willet, administrator of Jedediah Willet, $684.77.
Charles Francis Adams, administrator of Peter C. Brooks, $602.
A. Lawrence Lowell, administrator of Nathaniel Fellowes, $688.
H. Burr Crandall, administrator of Thomas Dickason, $860.
William P. Perkins, executor, etc., of Thomas Perkins, $430.
On the vessel brig Eliza, Thomas Woodbury, jr., master, namely:
Arthur L. Huntington, administrator of William Orne, $26,742.46.
Bayard Tuckerman, administrator of Walter Channing, surviving partner of Gibbs & Channing, $562.50.
Arthur L. Huntington, administrator of James Dunlap, $375.
William Ropes Trask, administrator of Thomas Amory, $750.
Archibald M. Howe, administrator of Francis Green, $375.
Harriet E. Sebor, administrator of Jacob Sebor, $187.50.
Sarah L. Farnum, administratrix of Leffert Lefferts, $375.
Louisa A. Starkweather, administratrix of Richard S. Hallett, $375.
Walter Bowne, administrator of Walter Bowne, 375.
Robert B. Lawrence, administrator of John B. Bowne, $93.75.
Walter S. Church and Walter S. Church, administrators of John Barker Church, $1,500.
Thomas W. Ludlow, administrator of Thomas Ludlow, $375.
Francis R. Shaw, administrator of J. C. Shaw, $187.50.
On the vessel brig General Warren, Issachar Stowell, master, namely:
Charles F. Adams, administrator of Peter C. Brooks, $5,773.45.
Edmond D. Codman, administrator of William Gray, jr., $1,628.
George G. King, administrator of Crowell Hatch, $875.
On the vessel ship Cincinnatus, William Martin, master, namely:
Richard H. Pleasants, administrator of Aquila Brown, jr., $1,665.
William A. Glasgow, jr., administrator of William P. Tebbs, $2,560.20.
On the vessel brig Pilgrim, Priam Pease, master, namely:
Nathaniel H. Stone, administrator of John M. Forbes, surviving partner of the firm of J. M. & R. B. Forbes, $17,592.20.
Russell Bradford, administrator of Joseph Russell, $2,774.44.
On the vessel ship Venus, Henry Dashiell, master, namely:
David Stewart, administrator of William P. Stewart, surviving partner of the firm of David Stewart & Sons, $3,900.
Elizabeth Campbell Murdock, administratrix of Archibald Campbell, $3,900.
Elizabeth H. Penn, administratrix of Thomas Higinbotham, $2,600.
Nicholas L. Dashiell, administrator of Henry Dashiell, $1,570.
On the vessel sloop Geneva, Giles Savage, master, namely:
Charles F. Adams, administrator, etc., of Peter C. Brooks, $1,105.
George G. King, administrator, etc., of Crowell Hatch, $680.
Thomas N. Perkins, administrator, etc., of John C. Jones, $595.
Francis M. Boutwell, administrator, etc., of Benjamin Cobb, $425.
Margaret R. Riley, administratrix, etc., of Luther Savage, surviving partner of the firm of Riley, Savage & Co., $3,470.
On the vessel ship Aurora, Stephen Butman, master, namely:
Charles Francis Adams, administrator of Peter C. Brooks, $1,750.
Frank Dabney, administrator of Samuel W. Pomeroy, $280.
Henry Parkman, administrator of John Duballet, $725.
George G. King, administrator of Crowell Hatch, $420.
William S. Perry, administrator of Nicholas Gilman, $750.
John W. Apthorp, administrator of Caleb Hopkins, $1,120.
Edward I. Browne, administrator of Moses Brown, $300.
Walter Hunnewell, administrator of Arnold Welles, jr., $210.
Nathan Matthews, administrator of Daniel Sargent, $350.
A. Lawrence Lowell, administrator of Nathaniel Fellowes, $350.
Daniel D. Slade, administrator of Daniel D. Rogers, $350.
Walter Hunnewell, administrator of John Welles, $210.
William S. Carter, administrator of William Smith, $350.
William I. Monroe, administrator of John Brazer, $280.
A. H. Loring, administrator of William Boardman, $73.50.
Lawrence Bond, administrator of Nathan Bond, $280.
On the vessel schooner Amelia, Timothy Hall, master, namely:
Julius C. Cable, administrator of William Walter, $760.
On the vessel brig Isabella and Ann, William Duer, master, namely:
Alexander Proudfit, administrator of Robert Ralston, $827.37.

Mr. LODGE. The hour of 1.30 having arrived, I make the point of no quorum.

The PRESIDING OFFICER. The Senator from Massachusetts suggests the absence of a quorum. The Secretary will call the roll of the Senate.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Foster	Nelson	Smoot
Bacon	Gallinger	O'Gorman	Stephenson
Brandegee	Gardner	Overman	Stone
Bristow	Hitchcock	Page	Sutherland
Brown	Jackson	Paynter	Swanson
Bryan	Johnston, Ala.	Penrose	Thornton
Chilton	La Follette	Perkins	Tillman
Clapp	Lea	Perky	Townsend
Clark, Wyo.	Lodge	Sanders	Warren
Crane	McLean	Simmons	Wetmore
Culberson	Martin, Va.	Smith, Ariz.	Works
Cullom	Martine, N. J.	Smith, Ga.	
Curtis	Massey	Smith, Md.	
Fletcher	Myers	Smith, S. C.	

The PRESIDENT pro tempore. On the call of the roll of the Senate 53 Senators have responded to their names. A quorum of the Senate is present.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore (Mr. BACON) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, and Mr. Robert W. Archbald, jr.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The Sergeant at Arms made the usual proclamation.

The PRESIDENT pro tempore. The Secretary will read the Journal of the last sitting of the Senate as a Court of Impeachment.

The Secretary read the Journal of Thursday's proceedings of the Senate sitting as a Court of Impeachment.

The PRESIDENT pro tempore. Are there any inaccuracies in the Journal? If not, it will stand approved.

Mr. WORTHINGTON. Mr. President, I wish to call attention to an error in the record of yesterday's proceedings on page 505. It is quite obvious, I think, but I would like to have it corrected. It is a remark made by me.

Mr. Manager CLAYTON. On what page?

Mr. WORTHINGTON. On page 505, about one-third of the way down. It reads:

I do not object to that unless it is proposed in some way to connect Judge Archbald with it or to show that he had knowledge of it.

Of course the "not" should not be there. It should read "I do object."

The PRESIDENT pro tempore. The correction will be made.

Mr. Manager CLAYTON. Mr. President, according to the understanding yesterday a legal proposition which was presented yesterday to the Chair was to be argued this morning, but I have conferred with my associate managers and also with counsel for the respondent, and we desire to depart from that arrangement for a brief time in order that we may examine at this time Commissioner Meyer, of the Interstate Commerce Commission, who has some public business that requires him to leave the city, I believe, to-day or to-morrow. I therefore at this time call Commissioner B. H. Meyer as the next witness.

TESTIMONY OF B. H. MEYER.

B. H. Meyer, having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager CLAYTON.) You are one of the members of the Interstate Commerce Commission, are you?—A. I am; yes, sir.

Q. Was there a case pending before the Interstate Commerce Commission, of which you are a member, known as the Marian Coal Co. against the Delaware, Lackawanna & Western Railroad in March and April, 1911?—A. There was.

Q. Will you please state, as briefly as you can, what that matter was?—A. The complaint of the Marian Coal Co. alleged unreasonable rates on the carriage of anthracite coal from a point on the Lackawanna near Scranton, known as Taylor, I believe, to tidewater; and the prayer was for a reduction of the existing rate to a figure given in the complaint. I believe it was 95 cents for the larger sizes and lower figures for the smaller sizes.

Q. Up to March and April, 1911, how far had this proceeding progressed before the commission of which you are a member?—A. The greater part of the testimony had been submitted; some statistical exhibits were still to be introduced, and supplementary hearings had, if necessary.

Q. Please state to the Senate if Mr. W. P. Boland called upon you while that matter was before your commission; and if so, where and when.—A. Mr. Boland had appeared as a witness during the course of the hearings, but he called upon me in my office on the morning of January 5, 1912. My confidential clerk, Mr. Cockrell, advised me on that morning that Mr. Boland was in the outer office and desired to see me. I requested Mr. Cockrell to take care of Mr. Boland, if possible, because I soon had to go to a hearing. Mr. Cockrell returned in a few moments and advised me that Mr. Boland had a matter which, according to his view, he could state only to the commissioner.

Q. I wish you would state the whole matter in narrative form. We examined you before the House Judiciary Committee and you know we called for a statement from you in regard to it. Now, I wish you would state what happened between you and Boland, and the whole transaction and what you did after Boland had told you what he desired to tell you.

Mr. WORTHINGTON. Mr. President, I would like to know what is supposed to be the relevancy of the conversations that took place between Mr. W. P. Boland and the commissioner here. There is one object that I can see, and if that is the object, of course, we make no objection. On the cross-examination of W. P. Boland, for the purpose of establishing his bias and his hostility against Judge Archbald, I inquired of him whether he had not made certain statements which he had made. If it is proposed to contradict him about that, I have no objection. If it is for any other purpose, I object to it as being wholly irrelevant here.

Mr. Boland was here. There was a great deal that took place, as I understand, between W. P. Boland and the commissioner and Mr. Cockrell and the Attorney General, and so far as any such thing is proposed to be introduced to contradict or enlighten what has been brought out here by W. P. Boland, we do not object, but for any other purpose we do object.

Mr. Manager CLAYTON. I do not apprehend there will be any serious objection, or any objection at all, to this testimony when I state the purpose.

The counsel for the respondent, in the latter part of his remarks, states one of the reasons why we think this testimony is admissible; and that is for the purpose of showing all that W. P. Boland had to do with the inception of this matter of the inquiry into the conduct of Judge Archbald.

We want to introduce it for a further purpose, Mr. President. As you will recall, several times during the trial the counsel for the respondent has been heard to charge a conspiracy against Mr. W. P. Boland in the matter of inaugurating these proceedings against Judge Archbald. We want to tell all that Mr. Boland did in that matter. We want to show that, while Mr. Boland may have called to the attention of the commissioner certain alleged misconduct on the part of Judge Archbald, the inauguration of this proceeding was actually not had by Mr. Boland. We desire to offer it to rebut the repeated statement of the counsel for the respondent that Boland had inaugurated a conspiracy against the judge, and we want to show how the transaction originated and all about it.

This is the witness to whom Boland made his first complaint, and we want to show, then, the history of it and how it got to the President and how it got to the Attorney General, and how, as the record shows, it finally came to the Judiciary Committee of the House of Representatives. We want to show, in other words, that everything that has been done in this case was done in a proper way, and we think it is due not only to Boland, but is due to the Senate, to know all about it, in view of the oft-repeated charges made by respondent's counsel that this is a conspiracy to ruin Judge Archbald.

Mr. WORTHINGTON. Certainly the manager has not understood me to charge that there was any conspiracy on the part of Mr. Meyer, of the Interstate Commerce Commission.

Mr. Manager CLAYTON. I do not say you have made such a charge, but you charged Mr. Boland with having originated a conspiracy to do it, and we want to show what the facts are and then let the Senate judge whether it was improper and whether or not it is conspiracy, or whether it is a proper proceeding.

The PRESIDENT pro tempore. The Chair would suggest that possibly it might avoid opening the doors to a too wide inquiry if the manager would limit the testimony of the witness, for the present at least, to what the Interstate Commerce Commission, or members of it, did for the purpose of instituting this proceeding.

Mr. Manager CLAYTON. That is all I was going to elicit from this witness.

The PRESIDENT pro tempore. And not testimony as to the conversation between the witness and Boland.

Mr. Manager CLAYTON. Yes, sir. This is a very intelligent witness, as the Chair knows, and he having been examined before, I take it he will confine himself strictly to what he as a member of the commission did and what he and his associates jointly did.

The PRESIDENT pro tempore. The Chair suggests that the manager for the present omit the question as to what was said to him by Mr. Boland; confining it to simply the steps the commissioners saw proper to take upon the information they received.

Mr. Manager CLAYTON. May I then ask him where he got the information?

The PRESIDENT pro tempore. He can state the information was received from such a person without going into it.

Mr. Manager CLAYTON. Very well.

Q. (By Mr. Manager CLAYTON.) You received from W. P. Boland at one time some information that he alleged against Judge Archbald, did you?—A. I did; yes, sir.

Q. When was that?—A. January 5, 1912.

Mr. Manager CLAYTON. Now, the Chair holds that I may not ask the witness what Boland told him?

The PRESIDENT pro tempore. It would be better to have him state what action was taken in consequence of the information received.

Q. (By Mr. Manager CLAYTON.) Then, Mr. Meyer, in your own way, please state in narrative form what you did and what the commissioners did, giving the time, place, and circumstances fully and in as much detail as you can, and at the same time as briefly as possible.—A. Having seen certain photographs which appeared to me to suggest something and to tell something extremely serious, I communicated that feeling to Judge Clements, who was chairman of the commission at that time. At my request Judge Clements met Mr. Boland in my office on the following morning. Both of us together looked at these photographs and again listened to Mr. Boland's explanation. Both of us had to attend sessions of the commission, and I again requested Mr. Cockrell to make note of what Mr. Boland was telling, and in due time he handed me a memorandum embracing those conversations. I thought about possible methods of procedure in this matter, and after some two or three weeks

I told Commissioner Clements that, in my judgment, we should take the entire commission into our confidence, especially as the time for the final hearing was approaching and it was necessary, as the presiding commissioner in that case, to reach a decision.

At the regular monthly conference on February 5, 1912, I circulated among my colleagues a memorandum prepared by Mr. Cockrell. I took it personally to the conference in a sealed envelope and distributed it among them; gave them time to read it, and after they had read it I made a few remarks referring to the photographs which they, of course, could not see, since Mr. Boland was unwilling to leave them there; and I repeated my feeling that the photographs were the serious thing in this situation.

None of us could know to what extent the statements orally made might be found to be erroneous. After some conversation in conference my colleagues advised me to take up this matter directly with the President. As soon as possible after that conference I made an appointment at the White House, and, after some preliminaries, handed to the President this memorandum prepared by Mr. Cockrell. The President, while he was looking it over, asked a few questions, and after he finished reading it asked some more questions, and then in my presence and within my hearing dictated a letter to the Attorney General, directing him to look into the matter and asking him to ascertain what foundation there was for these charges and, if found sufficient, to bring them to the attention of the Judiciary Committee.

In the same letter the President requested the Attorney General to get into touch with me and not to proceed until after he had conferred with me. The President also, in my presence and within my hearing, addressed a letter to me.

On the afternoon of February 13, which is the date on which I took the matter to the President, I had a conference with the Attorney General and related to him much of what I had related to my colleagues in conference. I advised the Attorney General that the final hearing in the Marian case was to be held on February 20, and that in view of the seriousness of this thing I thought it desirable that nothing should be brought out by Mr. Boland on that hearing, as Mr. Boland had suggested he would like to do.

Thereupon I put myself in touch with Mr. Boland's attorney, and without stating what I had in mind, I let him know that I did not desire on that hearing to bring out any of these collateral matters, and that I desired to have the hearing confined strictly to the issues relating to the rate in question. The hearing was held February 20 and was concluded about noon of that day.

I had made an appointment with the Attorney General for Mr. Boland and, if possible, his attorney. On the afternoon of February 20, in accordance with my understanding with the Attorney General, the two Bolands and Mr. Reynolds and Mr. Cockrell proceeded to the Attorney General's office and there I understand certain statements were repeated and a minute made of same.

Some time after that the Attorney General asked me to look over these minutes and to let him know what were my impressions of the statements. This I did, and the Attorney General advised me that Mr. Brown, an investigator in his department, had assumed charge of the case. That in a general way ended my connection with the case.

Mr. Manager CLAYTON. Now, Mr. President, I think that perhaps the Senate will want to know what were the photographs that Mr. Boland showed him, which seem to have attracted the attention of Commissioner Meyer.

The PRESIDENT pro tempore. The Chair does not think that that is a proper matter of investigation now. The sole purpose of the testimony, as the Chair understood, was to show that this proceeding was instituted through the governmental departments and not by a private citizen.

Mr. Manager CLAYTON. Very well. I do not think myself it is very material, Mr. President, but the Chair understands——

The PRESIDENT pro tempore. The opinion of the witness could not be given.

Mr. Manager CLAYTON. No; I do not wish it, but I merely wished to show, and I think I have shown, Mr. President—at least I shall so argue it at the proper time—that Mr. Boland did not inaugurate this proceeding.

The PRESIDENT pro tempore. The Chair understood that to be the object of this testimony exclusively.

Mr. Manager CLAYTON. Very well. The respondent, then, may examine the witness.

Q. (By Mr. WORTHINGTON.) Mr. Commissioner, if I understand your testimony, all the information you had which led you to go to the President with that memorandum came from William P. Boland.—A. Yes, sir. Not orally.

Q. A large part of it was oral, was it not?—A. The matter which was given to me was not oral at all. It rested entirely on photographs, and I believed that the photographs, unless forged, told a very serious story.

Mr. WORTHINGTON. Then I think it is essential that the witness shall identify the photographs, or the managers will perhaps admit them.

The PRESIDENT pro tempore. It is for the counsel for the respondent to identify them.

Mr. WORTHINGTON. I was going to save time merely.

Mr. Manager CLAYTON. We can agree. These photographs have been put in evidence. I did not think it was proper for me to say before, but I can now say that they have been put in evidence. I will let the witness examine them after he leaves the chair, and with the consent of counsel we will make reference to them as a part of the witness's testimony.

Mr. WORTHINGTON. I do not see that that is necessary. We know that those are the photographs. I do not see that it is worth while taking up time about it.

Mr. Manager CLAYTON. But he did not have photographs made of all the letters. He had photographs, as I understand it, of letters to Capt. May and to Mr. Conn, and other letters from Judge Archbald.

Mr. WORTHINGTON. There is no photograph of a letter to Capt. May.

Mr. Manager CLAYTON. Whatever they were—I may be inaccurate—they are here.

Mr. WORTHINGTON. Very well.

Mr. Manager CLAYTON. That is what we had hoped to have done without objection in the beginning. I am glad to say this is a fair, a very fair witness. [To the witness, handing papers:] You will pick out, if you can, from those photographs and say to the Senate which, if any, of those were exhibited to you by Mr. Boland at the time you have referred to. Look at this one [indicating].

The WITNESS. If I might have reference to Mr. Cockrell's memorandum, I could identify each one that was shown to me at that time.

Mr. Manager CLAYTON. Will you give me Mr. Cockrell's memorandum?

Mr. WORTHINGTON. You can read that from the record. We do not care.

Mr. Manager CLAYTON. I think this is the memorandum that you referred to. Examine that and see [handing paper to witness].

The WITNESS (examining). I believe that this was among the photographs which I saw. I would not be positive that they are all the photographs that I saw.

Mr. WORTHINGTON. Give the exhibit number, please.

Mr. Manager CLAYTON. Let us take this paper, which is Exhibit 17, before the House committee.

The SECRETARY. It never has been marked here.

Mr. Manager CLAYTON. This paper, the original of which was Exhibit No. 17 in the proceedings before the House Committee on the Judiciary, is a photograph of the letter from Capt. W. A. May, general manager, dated August 30, 1911, addressed to Mr. E. J. Williams, 625 South Blakely Street, Dunmore, Pa. The original of this letter has been read in evidence, and by agreement with the respondent's counsel, Mr. President, I am authorized to say that the original of this letter having been already printed in the record, we can therefore dispense with the reading of the photographic copy of that letter, but it ought to be identified so that it can be referred to in the argument.

The next is known as Exhibit 19. It was marked, I think, in the House Judiciary Committee proceedings. It is a photographic copy of the agreement in Judge Archbald's handwriting and signed by John M. Robertson and E. J. Williams and witnessed by R. W. Archbald.

Mr. WORTHINGTON. And dated?

Mr. Manager CLAYTON. And dated the 4th day of September, A. D. 1911, and acknowledged before George W. Benedict, notary public, on the 12th day of September, A. D. 1911, the original of which photographic copy, it is agreed, has already been introduced in evidence and is printed in the record.

The next is marked "Exhibit 20" in the Judiciary Committee proceedings of the House of Representatives, I think. At any rate that appears there. It is a photographic copy of the document called an assignment, made the 5th day of September, A. D. 1911, by Edward J. Williams to William P. Boland and a silent party. It is signed by E. J. Williams and witnessed by W. L. Pryor, the original of which, as the counsel for the respondent agree, has been introduced in evidence and is printed in the record.

The other is marked "Exhibit 21" in the proceedings before the Judiciary Committee of the House of Representatives. It is

a letter dated September 20, 1911, addressed to "My Dear Mr. Conn," and is signed by R. W. Archbald. It is agreed by the respondent's counsel that the original of this letter has already been introduced here in evidence, and that this is a photographic copy of that letter which has been printed in the record.

(The papers were handed to the witness.)

Q. (By Mr Manager CLAYTON.) You say that you identify those photographs as being among the photographs that Mr. Boland showed you at the time that you have referred to?—A. Yes, sir.

Q. And upon which your action was based?—A. Yes, sir.

Q. (By Mr. WORTHINGTON.) Can you say whether there were any others?—A. I can not.

Q. Have you the memorandum or a copy of the memorandum which you took to the President?—A. No, sir. I believe this is a copy.

Q. Printed in the record?—A. Marked "Exhibit 28," I think.

Mr. Manager CLAYTON. In the proceedings before the House Judiciary Committee.

Mr. WORTHINGTON. Yes; this is it.

Mr. Manager CLAYTON. It has not been introduced here.

Mr. WORTHINGTON. I propose to have this read in evidence.

Mr. Manager CLAYTON. We have no objection.

Q. (By Mr. WORTHINGTON.) This is a copy of the memorandum which you took to the President?—A. (Examining.) I believe it is.

Mr. WORTHINGTON. It is printed in the record here.

Mr. Manager CLAYTON. I have no objection. On what page is it printed?

Mr. WORTHINGTON. On page 666 of the proceedings before the House Judiciary Committee. I ask that the memorandum be read.

The PRESIDENT pro tempore. The Secretary will read the memorandum.

The Secretary read as follows:

[U. S. S. Exhibit N.]

To the best of my recollection the story related by Mr. Boland is as follows:

Some years ago the Marian Coal Co. (owned by the Boland brothers) had in its employ, as general manager, a man named Peal. The company found that Mr. Peal was unfit to continue in its employ and terminated his services. Some time thereafter, a year or two, as I recall Mr. Boland's statement, Peal filed suit in the Federal court for breach of contract. The attorneys for the coal company filed a demurrer which, if sustained, would mean the termination of the suit.

Before action on the demurrer was had, Mr. Boland was approached by E. J. Williams, representing "A," the judge before whom the case was pending. Williams said that "A" wanted Boland to discount "A's" note for $500. Boland wanted to know why he was asked to discount the note. Williams said that Boland had a suit pending in court, and if he would discount the note he would be saved all of the costs of the suit. Boland did not discount the note, and he understands that it was discounted by a bank at Scranton, the president of which he describes as a politician. The demurrer was not sustained, and the suit is still pending in the Federal court, the costs to Boland to date being about $3,300. (Boland has in his possession an affidavit by Williams, stating the facts as to the note and what Boland would gain by discounting it.)

Boland was aroused at this action prompted by "A," and determined to trap him in some transaction which would prove his unfitness to serve on the bench. He thereupon told Williams that he knew of a culm bank belonging to the Erie road, through direct ownership by the Hillside Coal Co.; that he thought "A" might secure and make a good profit by selling it to some other company. Williams took the matter up with "A," who thought well of it. "A" went to New York and saw Mr. Brownell, vice president of the Erie road, who telephoned Mr. May, superintendent of the Hillside Co., to give Williams an option on the culm bank. "A" returned to Scranton and made out in his own handwriting and signed as witness an option giving Williams the right to purchase the culm bank for the sum of $3,500. "A" called up Mr. Conn, vice president of the Laurel line, and told him that Williams would see him, bearing a letter of introduction from "A," with reference to the sale of the culm bank to the Laurel line. "A" said he was interested in the culm bank and hoped they could arrange a deal. Conn agreed to buy the culm bank for a sum which, after deducting necessary expenses and the original cost of the bank—$3,500—will net about $35,000. This deal will be closed within the next few days, the necessary papers now being prepared.

Under the arrangement Williams made with "A" at the time "A" secured the option on the culm bank the net profits will be divided equally between Boland, who had discovered the culm bank, Williams, who acted as a go-between, and "A," who used his influence as Federal judge to secure the option.

Boland has in his possession a photograph of the option written and witnessed by "A," a photograph of "A's" letter introducing Williams to Conn, and another letter from "A," introducing Williams to Mr. Darling, the Lackawanna attorney at Scranton, and having reference to another culm bank, which Boland says will be secured by "A" very soon, for the purpose of making another sum of money through the use of his influence with the railroads.

Boland expects to secure very shortly the absolute evidence necessary to prove the final consummation of the above-described sale of the culm bank. Boland states that he has told his story and shown his evidence only to Chairman Clements, Commissioner Meyer, and myself.

Extract from letter dated December 6, 1911, to Commissioner Meyer, from J. L. Seager, commerce counsel, Delaware, Lackawanna & Western Railroad Co. * * *

We left Mr. Lyon with the assurance that we would proceed to get together the information requested, so far as it was within our power, and we came back to New York prepared to make good such assurance. Very soon thereafter we were informed from a reliable source that because of the loss of the property of the Marian Coal Co., as the result of litigation with other parties than the Delaware, Lackawanna & Western, and because he was fairly well satisfied with the relief already obtained in the proceedings before the Interstate Commerce Commission against the Delaware, Lackawanna & Western, Mr. Boland did not care to proceed further therein and had dropped the cases. Under these circumstances we felt that the occasion had passed which prompted you to make the request for the information and that you would not desire us to go to the very considerable expense of preparing data, which, so far as appeared, would never be used. For this reason we suspended our preparations to gather the information requested.

Boland says the litigation referred to by Seager is the suit filed by Peal and that Seager has inside advance information of the decision of the court, which has not yet been handed down.

Mr. Manager CLAYTON. Mr. President, in view of the introduction of that in writing, I would like for these photographic copies of letters and documents which have been introduced in evidence this morning to be printed at this point in the RECORD. I do not desire to have them read.

Mr. WORTHINGTON. There is no objection.

The PRESIDENT pro tempore. There is no objection, and it will be so done.

The matter referred to is as follows:

[U. S. S. Exhibit 80.]

(Pennsylvania Coal Co. Hillside Coal & Iron Co. New York, Susquehanna & Western Coal Co. Northwestern Mining & Exchange Co. Blossburg Coal Co. Office of the general manager, Scranton, Pa.)

AUGUST 30, 1911.

Mr. E. J. WILLIAMS,
626 South Blakely Street, Dunmore, Pa.

DEAR SIR: As stated to you to-day verbally, I shall recommend the sale of whatever interest the Hillside Coal & Iron Co. has in what is known as the Katydid culm dump, made by Messrs. Robertson & Law in the operation of the Katydid breaker, for $4,500.

In order that it may not be lost sight of, I will mention that any coal above the size of pea coal will be subject to a royalty to the owners of lot 46, upon the surface of which the bank is located.

It is also understood that the bank will not be conveyed to anyone else without the consent of the H. C. & I. Co., and that if the offer is accepted articles of agreement will be drawn to cover the transaction.

Yours, very truly,

W. A. MAY, *General Manager.*

[U. S. S. Exhibit 81.]

This agreement made and concluded this 4th day of September, A. D. 1911, by and between John M. Robertson, of Moosic, Pa., of the one part, and Edward J. Williams, of Scranton, Pa., of the other part, witnesseth:

Whereas the said party of the first part is the owner of that certain culm dump in the vicinity of Moosic made in the operation by the firm of Robertson & Law of the so-called Katydid mine or colliery. And whereas the said party of the second part is desirous of purchasing the same:

Now this agreement witnesseth that for and in consideration of $1 to him in hand paid, the receipt of which is hereby acknowledged, the said party of the first part hereby grants and conveys unto the said party of the second part, his heirs, executors, administrators, and assigns the right or option to purchase his interest in and to the said culm dump for the price or sum of $3,500, which said option is to be exercised within 60 days from this date, the terms to be cash within 5 days after the exercise of said option. It is understood that this option is intended to cover and include all the interest of the said party of the first part and of the said late firm of Robertson & Law.

In witness whereof the parties hereto have hereunto set their hands and seals this day and year aforesaid.

JOHN M. ROBERTSON. [SEAL.]
E. J. WILLIAMS. [SEAL.]

Witness:
R. W. ARCHBALD.

State of Pennsylvania, county of Lackawanna, ss:

On this 12th day of September, A. D. 1911, personally appeared before me, a notary public in and for said State and county, duly commissioned, residing city of Scranton, county aforesaid, the above-named E. J. Williams, who in due form of law acknowledged the foregoing indenture to be his act and deed and desired the same might be recorded as such.

Witness my hand and official seal the day and year aforesaid.

[SEAL.] GEORGE W. BENEDICT, Jr.
Notary Public.

My commission expires March 10, 1913.

[U. S. S. Exhibit 82.]

Assignment, made this 5th day of September, A. D. 1911, by Edward J. Williams, of the borough of Dunmore, County of Lackawanna and State of Pennsylvania, party of the first part, to William P. Boland and a silent party, both of the city of Scranton, county and State above mentioned, parties of the second part. For services rendered or to be rendered in the future by William P. Boland and silent party, whose name for the present is only known to Edward J. Williams, W. P. Boland, John M. Robertson, and Capt. W. A. May, superintendent of the Hillside Coal & Iron Co., it is agreed by said Edward J. Williams, who is the owner of two options covering a culm bank known as the "Katydid," situate in the vicinity of Moosic, Pa., that he hereby assigns two-thirds of any profits arising from the sale of the above-mentioned property over and above the amounts to be paid John M. Robertson and the Hillside Coal & Iron Co., $3,500 and $4,500, respectively, to be divided equally between William P. Boland and silent party mentioned above, their heirs, successors, or assigns, and this shall be their voucher for same.

E. J. WILLIAMS. [SEAL.]

W. L. PRYOR.

[U. S. S. Exhibit 83.]

(R. W. Archbald, judge, United States Commerce Court, Washington.)

SCRANTON, PA., *September 20, 1911.*

MY DEAR MR. CONN: This will introduce Mr. Edward Williams, who is interested with me in the culm dump about which I spoke to you the other day. We have options on it both from the Hillside Coal Co. and from Mr. Robertson, representing Robertson & Law, these options covering the whole interest in the dump. This dump was produced in the operation of the Katydid colliery by Robertson & Law, and extends to the whole of the dump so produced. I have not seen it myself, but, as I understand it, this dump consists of two dumps a little separate from each other, but all making up one general culm or refuse pile made at that colliery. Mr. Williams will explain further with regard to it, if there is anything which you want to know.

Yours, very truly,

R. W. ARCHBALD.

Cross-examination:

Q. (By Mr. WORTHINGTON.) Now, Mr. Commissioner, I find in this memorandum it is stated:

The attorneys for the coal company filed a demurrer which, if sustained, would mean the termination of the suit. Before action on the demurrer was had Mr. Boland was approached by E. J. Williams, representing "A," the judge before whom the case was pending.

Now, did Mr. Boland make that statement to you?—A. That is my confidential clerk's recollection of what Mr. Boland said.

Q. Had you not had a talk with him?—A. Mr. Boland made various statements to me. I do not say now he did or did not say that.

Q. Did you take to the President a memorandum saying that Judge Archbald had overruled a demurrer because the party who filed the demurrer had refused to discount his note, without knowing anything about whether it was true or not?—A. I would take to the President any statement prepared under such circumstances by my confidential clerk; yes, sir.

Q. You would?—A. Yes, sir.

Q. Then you do not know of your own knowledge whether Mr. Boland had made this statement or not?—A. I would not be positive. Mr. Boland made a great many statements.

Q. You stated a little while ago that you relied only on the photographs. Was any photograph submitted to you that tended to support that statement and show that the note was presented to the judge before his action on the demurrer?—A. I intended to say I relied chiefly on the photographs, and in response to your question I say I did not rely only upon oral statements.

Q. After setting forth about his overruling the demurrer after the note had been presented and discount refused, you say that "Boland was aroused at this action, prompted by 'A'"——A. I beg your pardon; I did not say that. The memorandum said that.

Q. You took to the President a memorandum which contained that statement?—A. Yes, sir.

Q. You did not know anything about it except what Mr. Cockrell told you?—A. I have no personal knowledge of that; no, sir.

Q. It also says this—and I should like to know whether you had any information except Mr. Cockrell's report to you as to it—

"A."——

Of course "A" means Judge Archbald.

"A." went to New York and saw Mr. Brownell, vice president of the Erie Road, who telephoned Mr. May, superintendent of the Hillside Co., to give Williams an option on the culm bank.

Did you know anything in advance of that statement except what Mr. Cockrell had put in this memorandum?—A. I can not know telephone messages between Scranton and New York; no, sir.

Q. You took that to the President without knowing anything about it?—A. Yes, sir.

Q. Except Mr. Cockrell said that Mr. Boland said that?—A. I know Mr. Cockrell is a reliable man.

Q. I do not think you have answered my question.—A. Will you kindly repeat it?

Q. The question is whether you took that statement to the President without knowing anything about it except that Mr. Cockrell told you Mr. Boland said that?—A. I presume Mr. Boland told me a good many things. He had a story and I did not hear all Mr. Boland's story. I did not take time to listen to it. It took him a good while and it took more time than I had. A commissioner is a busy man.

Q. Was Mr. Boland in an excited condition about it?—A. I do not think he was.

Q. Did he tell you he came down there for the purpose of having proceedings instituted against Judge Archbald?—A. No, sir.

Q. Did he tell you he came down there for the purpose of giving this information in reference to the suit which he had pending before the commission?—A. I think he said he would like to introduce that as a part of his testimony.

Q. And he made this statement to Mr. Cockrell and to you, and Mr. Cockrell reduced the statement to writing?—A. As told twice by Mr. Boland.

Q. And the purpose, as you understood at the time, was to influence the action of the commission in reference to the suit which was pending before it?—A. I had no such understanding. Mr. Boland never said a word about it, except he expressed the wish to put that in as a part of his testimony.

Q. Was the counsel of the railroad company notified of these proceedings?—A. Of which proceedings?

Q. Of what was going on between you and Mr. Cockrell on the one hand and Mr. Boland on the other, when he was telling you that he wanted it to go into evidence?—A. Thousands, representing petitioners, as well as railway companies, come to the office of the commission in the course of a year.

Q. The question is not answered.—A. I did not know Mr. Boland was coming. I did not know what he wanted. How could I notify anybody, if I desired to do it? There was no occasion to notify anybody, as I saw it.

Q. You listened to him?—A. I listened to him as to any other man who will come to my office, and every man has a right to come there.

Q. After that statement about Mr. Brownell telephoning to Mr. May to give this option, it says:

"A." returned to Scranton and made out in his own handwriting and signed as witness an option giving Williams the right to purchase the culm bank for the sum of $3,500.

You understood that to mean that Judge Archbald wrote out the option which Mr. May was to give?—A. I believe I saw some such document as that.

Q. That is what you understood that memorandum to mean when you took it to the President, that the judge went to Brownell and Brownell telephoned to May to give the option, and the judge wrote out the option and had it signed. Was not that the idea you meant to convey to the President?—A. I meant to convey to the President nothing but what that memorandum contained and what I thought it meant.

Q. This language I will read again:

"A." returned to Scranton and made out in his own handwriting and signed as witness an option giving Williams the right to purchase the culm bank for the sum of $3,500.

Did you think, and did you wish the president to think, that Judge Archbald had written the option which Capt. May was to give on dictation by telephone from Brownell?—A. I paid no special attention to any one special statement, relying primarily on what was in the photographs.

Q. There was nothing in the photographs about the $500 note?—A. I can not say. I would have to examine the photograph.

Q. Was there anything about the demurrer?—A. I suppose not.

Q. Or anything about Mr. Brownell's telephoning to Capt. May?—A. I do not believe that is capable of photographic reproduction.

Q. Now, it says, next:

Under the arrangement Williams made with "A." at the time "A." secured the option on the culm bank the net profits will be divided equally between Boland, who discovered the culm bank, Williams, who acted as a go-between, and "A.," who used his influence as Federal judge to secure the option.

Did Boland say he was entitled to one-third of the proceeds of this transaction?—A. He must have said it, or otherwise Mr. Cockrell would not have written it.

Q. Do you remember whether, when talking to you, he said that?—A. I think he probably did.

Q. Mr. Meyer, I understand that you arranged the meeting with the Attorney General, when Mr. W. P. Boland was to be taken there?—A. Yes, sir; I did.

Q. The suit of the Marian Coal Co. against the Delaware, Lackawanna & Western Railroad Co. was set down for a final hearing on the 20th of February?—A. The 12th.

Q. No; the 20th. You arranged with the Attorney General that after the hearing was over you would take Mr. Boland up to the Attorney General's office?—A. No; I did not arrange to take Mr. Boland to the Attorney General's office, but I arranged for a conference between the Attorney General and Mr. Boland and his attorney. Of this neither Mr. Boland nor his attorney, Mr. H. C. Reynolds, had any knowledge before the meeting.

Q. You had Mr. Cockrell go and attend the meeting?—A. Yes, sir.

Q. At your request?—A. I wanted Mr. Cockrell to show them where the Attorney General was to be found, and he was to be there.

Q. In reference to the last part of this examination, which says:

Boland says the litigation referred to by Seager is the suit filed by Peale, and that Seager has inside advance information of the decision of the court, which has not yet been handed down.

You knew Judge Witmer then had charge of the case and would make the decision, if any were made?—A. I did not know any such thing; no, sir.

Q. You knew that Judge Archbald was then judge of the Commerce Court, did you not?—A. I did.

Q. And there must be some other judge who would be sitting in the middle district of Pennsylvania?—A. I paid no attention to the character of that litigation.

Q. As a matter of fact now, Mr. Meyer, did not Mr. Boland tell you that Judge Witmer was giving information about what he was going to do in the Peale case?—A. He may have said it; I would not be positive; I doubt it.

Q. Did you not omit from the memorandum which you took to the President any reference to Boland's charges against Judge Witmer?—A. I had nothing whatever to do with the preparation of that memorandum and neither included nor omitted anything.

Q. Did you not direct Mr. Cockrell to make the memorandum?—A. Yes, sir.

Q. For the purpose of taking it to the President?—A. Not for the purpose of taking it to the President.

Q. You did take it to the President?—A. Yes, sir.

Q. And you read it?—A. The President read it.

Q. You read it before you took it to the President?—A. Most assuredly, I read it before that, and Judge Clements before that.

Q. You took a memorandum with those charges that a judge was giving advance information to one of the parties to the suit, without knowing who the judge was?—A. Yes, sir.

Q. Is it not a fact that you omitted a reference to the other judge because he was not a judge of the Commerce Court?—A. There was no such purpose as that.

Q. With an important charge against Judge Witmer, the man who was going to give this decision, and it was charged was giving advance information, what reason was there for taking to the President only that part of the story which related to Judge Archbald?—A. Mr. Cockrell listened to Mr. Boland the morning we had the conference. He listened when Mr. Boland told the story to Judge Clements; it was listened to by myself in part and continued with Mr. Cockrell; and based on those two recitations Mr. Cockrell prepared a memorandum as to what he had said, to the best of his recollection. That is all I can say about that memorandum.

Q. Then, if Judge Witmer was intentionally omitted from the memorandum, it was Mr. Cockrell who did it, and not the commissioner?—A. Yes, sir.

Mr. WORTHINGTON. That is all.

Mr. Manager CLAYTON. This witness may be discharged.

The PRESIDENT pro tempore. The witness will retire.

TESTIMONY OF CHRISTOPHER G. BOLAND—CONTINUED.

Mr. Manager FLOYD. Mr. President, we are now ready to further consider the question of the admissibility of the evidence in the testimony of C. G. Boland, and I ask that Judge STERLING be heard on the part of the managers.

Mr. Manager STERLING. Mr. President, it will be remembered that the evidence which we seek is a statement made by George M. Watson to Christopher G. Boland. George M. Watson was the attorney employed by the Bolands and the Marian Coal Co. to settle the suit which that coal company had before the Interstate Commerce Commission and to sell the stock of the Marian Coal Co.

We believe that the testimony is competent on at least two grounds. First, they are statements made by one who was a party with the respondent, Judge Archbald, to do a wrongful thing, and it relates to matters that were done or proposed in furtherance of the doing of the wrongful thing.

A conspiracy is an agreement between two or more persons to do a wrongful thing, and anything that either party to such an agreement does or says in furtherance of the agreement is competent against the other party to the agreement. The two parties to this agreement were Judge Archbald and George M. Watson, and the unlawful thing which they proposed to do was to use the influence of Judge Archbald as a judge of a Federal court to compel or to induce, if you prefer, the Delaware, Lackawanna & Western Railroad Co. to buy this stock and to settle this suit.

We understand, and it is purely an elemental principle of law, that we must prove the conspiracy before we can prove acts and words on the part of one of the coconspirators against the other coconspirators; and the only question that is left is whether we have proven in this case this agreement by Archbald and Watson that Judge Archbald should use his influence as a judge in order to prevail upon this railroad company to engage in this settlement and in the purchase of this stock.

Now, what is the proof? In the first place, immediately after the Bolands employed Watson to represent them in the settlement and in the sale of this stock Watson visits Judge Archbald's office, and some one, Judge Archbald or some other person, while they are there together, telephones Christy G. Boland to come to Judge Archbald's office, and he goes there.

It is stated there in the presence of those three what was to be done, and Christopher G. Boland says that Judge Archbald said that he would help—that was the language of Mr. Boland, that he would help—get this settlement out of the Delaware, Lackawanna & Western Railroad Co. and help to sell them the stock of the Marian Coal Co.

We believe that when we have gone that far we have proven that Judge Archbald is a party to the agreement to do the wrongful thing of using his influence as a judge, it being remembered that at that time the Delaware, Lackawanna & Western Railroad Co. had two lawsuits pending in the court over which Judge Archbald presided; we believe when we have gone that far and proven the express agreement of Judge Archbald to help in that matter we have proven a conspiracy.

But that is not all the evidence in the case. If Judge Archbald had never used that language in the presence of Christopher Boland, we have proven here that immediately after that conference between those three men Judge Archbald meets Loomis, one of the high officials of this railroad company, and suggests this matter of a purchase of the stock and of the settlement of the Marian Coal Co.'s suit in the Commerce Court; then, a few days after that, he telephones to Mr. Phillips, another high official, superintendent of the coal properties of this railroad company, to come to his house, and he talks to him about the proposition of a settlement and a sale; then, when he was in New York he goes to the offices of this railroad company, urging that they settle this suit and purchase this stock; then he writes at least three letters to Mr. Loomis, urging all the time, using all his influence, to carry out this agreement which had been entered into between him and Watson. Even after it was supposed that the matter had fallen through, he still writes to Loomis and tells him that he understands that the settlement has failed; that he regrets it very much, and that if he thought he could do any good he would offer his personal services to carry out that end. He then suggests a personal conference between Truesdale, the president of the company, and Mr. Loomis and Mr. Phillips and Mr. Watson, and says a personal conference very often results in good. He did not only agree, and we have not only proven that he did agree, to help to do this wrongful thing, but we have proven that he carried out the agreement and did all in his power to carry it out.

So in that phase of the case we submit, Mr. President, that we have not only proven a conspiracy, but we have proven that Judge Archbald did his part of the undertaking. For that reason any statement made by his coconspirators in furtherance of this agreement is competent against Judge Archbald in this case.

I shall not weary the Senate with precedents, but I do want to call attention to one precedent which Mr. Manager FLOYD referred to the other day, and which I think is exactly in point in this case. In the impeachment proceedings against President Johnson, one of the charges in the articles was that Andrew Johnson—

did unlawfully conspire with one Lorenzo Thomas with intent unlawfully to seize, take, and possess the property of the United States in the Department of War, in the custody and charge of Edwin M. Stanton.

It was plain there that President Johnson had called Gen. Thomas to his office; had made certain statements to Gen. Thomas; that Gen. Thomas had consented to do what the President had suggested, and that that constituted a conspiracy between President Johnson and Gen. Thomas. Then Gen. Thomas went out and stated to a third person some of the things that President Johnson had said to him. That third person was called as a witness in the trial of the case before the Senate, and the Senate held that he could testify as to what Gen. Thomas told him he had heard President Johnson say. That is exactly the same kind of case as this.

Here is George M. Watson. We charge that he and Archbald made this agreement. Then Watson goes out and tells Christy G. Boland about what they had done and about what they were doing in furtherance of this proposition to get this settlement. It was right along the line of doing the very unlawful thing that we charge in this count, that it was the use of the judge's official power in order to induce litigants in his court to come to their terms. It will not be disputed by these gentlemen, I am sure, that it is a wrongful thing for a judge to use his influence to induce litigants in his court to do anything, whether it be for a consideration to himself or to a friend.

Just one further thing on that point. During the discussion——

The PRESIDENT pro tempore. Will the manager permit the Chair to make an inquiry? The precedent cited by him is where the article of impeachment charged a conspiracy, is it not?

Mr. Manager STERLING. Yes, sir; it charged a conspiracy in the article.

During the discussion the other day it was suggested, I think, or perhaps was in the mind of the Chair, at least, that the evidence was not sufficient to prove that Judge Archbald was to receive any consideration for his part in carrying out this agreement. It is true that in the article to which this evidence relates it is charged that for a consideration Judge Archbald entered into this agreement and agreed to use his influence to get this settlement.

We submit that the words "for a consideration" are not essential to the offense. Those words constitute no necessary element in the offense which we charge. It makes no difference, so far as the completion of the offense is concerned, whether or not Judge Archbald was to participate in the fees or in any moneys derived from this settlement. He knew that Watson was to get $5,000; and if, in order to assist a friend in earning a fee, he would undertake to use his power as a judge to get litigants in his court to come to an agreement or to a settlement, he is guilty of the offense; he is guilty of the gravamen of the charge that is contained in this count. We submit that, although it is a very compelling inference—and we say that it is an unavoidable inference—from all the testimony in this case that Judge Archbald was to share in this money, it is immaterial in this question, because anything he did in the way of using his official power in aiding Watson to earn a fee was a wrongful act. If the Chair will read it again, it will be found that that is the charge in the count, and that the words "for a consideration" are not necessary or essential to the completion of the charge.

Just a word on the other proposition. We believe it is res gestæ.

The PRESIDENT pro tempore. The manager did not understand the Chair as ruling on that ground that the evidence related in any manner to the question ultimately to be decided by the Senate as to whether or not the respondent had been guilty of improper conduct?

Mr. Manager STERLING. No.

The PRESIDENT pro tempore. The Chair did not rule on anything of that kind. The Chair ruled on the question as to the admissibility of this evidence, based, as it is, upon the allegation that Judge Archbald was Mr. Watson's partner.

Mr. Manager STERLING. The court understands that our position has been that it is competent on the ground that I have just stated. I think Mr. Manager FLOYD made that statement the other day. The reason I discussed this proposition with reference to whether or not Judge Archbald was to share in the fee or any part of the money derived from the settlement was because I inferred from what the President said the other day, if I understood him properly, that it had not been sufficiently shown that Judge Archbald was to share in the proceeds of the settlement. I may have been mistaken about that, but in any event——

The PRESIDENT pro tempore. The Chair will repeat his ruling, if the manager so desires. The ruling of the Chair was that there had not been sufficient evidence produced to justify the conclusion that Judge Archbald was the partner of Mr. Watson to such an extent as to permit the sayings of Mr. Watson to be introduced in evidence against him as a partner. The Chair did not go beyond that.

Mr. Manager STERLING. I will say, then, in regard to that, that we trust that now, since the evidence is in—and I believe I have stated it correctly—the Chair will find that we have offered sufficient evidence to prove that there was a conspiracy; that Judge Archbald was a party to it; and the statements that we propose to prove are the statements of one of the coconspirators showing what was done or what was proposed to be done in furtherance of that agreement.

It certainly can not be disputed under this evidence that Watson and Archbald were partners—partners, it is true, to do an unlawful thing, which constitutes the conspiracy itself. They said they would help each other in it; and they did help each other in the proposition. So we submit that they were partners in that respect.

Now, just another word on the question as to whether or not this evidence is res gestæ. It will be understood that Christy Boland is the man who employed George M. Watson for the Marian Coal Co., and this conversation which we are seeking to get from Christy Boland is a conversation containing statements by Watson to Boland with reference to what he had done and what he had proposed to the officers of this railroad company toward carrying out his duty to his clients, and at the same time toward carrying out the agreement which he made with Archbald to use the judge's official influence in order to arrive at a settlement.

It seems to me, Watson being the attorney of Mr. Boland, that what Watson said to Boland about what was being done with reference to the contract of hiring, with reference to the employment, and with reference to what he was doing toward performing his duty in conjunction with Judge Archbald, becomes a part of the res gestæ in this case, and that we are entitled to show now, as a part of the res gestæ, what Watson said to Boland along that line.

I think that is all I have to say, Mr. President, in the matter. It seems to me that it is very clear under the law of conspiracy, and very clear that the Senate in the case to which I have referred, where the question involved was very similar to the one now being argued, held that it was competent under the law of conspiracy; and we submit that we are entitled to have Mr. Boland testify to that conversation.

Mr. SIMPSON. Mr. President, the learned manager has only referred to one of the legal principles which are applicable to this case, though he has very fairly referred to that one. He has said to you that there must be, in the first instance, proof of an unlawful conspiracy before there can be admitted the testimony by outside parties of the admissions or declarations or statements of one of the coconspirators as against the other. The difficulty under which the learned manager labors in that statement is that he seems to assume that upon proof of a combination therefore there is proof of a conspiracy. But a conspiracy and a combination are two very distinct and different things. There is embodied in every conspiracy a combination, but there is not embodied in every combination a conspiracy. A conspiracy is a combination to do an unlawful thing, and the very gravamen of the charge in the Johnson impeachment case was that Gen. Thomas, knowing of President Johnson's intention to oust Stanton from his office in violation of the tenure of office act, joined with Johnson in accomplishing that purpose; and that therefore the statements which were made by Thomas were admissible as against Johnson in the impeachment proceedings. Nobody would question that ruling if the matter were parallel here at all, but there is not the slightest parallel. Let us see.

The manager says that there is an unlawful thing here. What constitutes the unlawful thing? That is the primary question which you and the Senate have to meet. If Judge Archbald or you or I or anybody else agreed to assist a friend, is that unlawful? Can there be anything said to be unlawful in relation to that? If such a thing as that is unlawful, sir, then the whole basis of our Christianity is unlawful, because we are commanded to assist our fellow men whenever and wherever we can. There must be back of it something more than mere assistance, and there is where the learned manager fails in his argument. He has produced here nothing whatsoever showing anything further than assistance pure and simple; assistance which Mr. Boland, his witness, himself says was an assistance as a friend to him, Boland, and as a friend to Watson, who was Boland's counsel.

When the managers have proven something beyond that friendly assistance, they may get to the second step in this case, but their failure to show anything beyond that leaves the case outside the rule to which the manager has adverted, namely, that there must be proof of a conspiracy in the first instance before declarations can be admitted at all.

There is a second step, if he passes that one, sir. If it were admitted or proven here that there was a conspiracy, admissions or declarations of one conspirator could not be adduced as against the other unless they were made in furtherance of the conspiracy. The manager stated that himself but has misunderstood its application.

Let us see, sir, whether or not the question which you are considering is or can reasonably be held to be an inquiry in relation to something done in furtherance of a conspiracy. Remember, sir, as I shall read to you in a moment from the authorities, the test is not merely that the conspiracy is a thing in existence and has not entirely culminated. That is only one essential. There must not only be that, but that which is done must also be done in furtherance of the conspiracy. Now, let me read the question before I read the authorities. This is the question:

Q. (By Mr. Manager FLOYD.) Now, Mr. Boland, I will ask you to state whether or not during the course of these negotiations you had any conversations with Mr. Watson relative to Judge Archbald's interest or participation in this settlement and particularly as to whether he was to share in the fee or receive any money or other pecuniary consideration for his services in attempting to make that settlement.

Now, as Mr. Boland has said that he had not himself any talk with Judge Archbald in regard to it, the limit to which that question can possibly go would be that Mr. Watson had said to Mr. Boland that at some time in the past there had been an agreement entered into between Watson and Archbald that

Archbald was to share in the fee to be received or to obtain some "consideration for his services in attempting to make that settlement," if I may use the language of the question. That is a statement which necessarily relates to a past occurrence; and a statement of a past occurrence can not be a statement in furtherance of a conspiracy and can not be admissible, even if there were evidence of a conspiracy, which there is not.

I read, first—the books are here, but for convenience I read from the brief which I have prepared—from a decision of the Supreme Court of the United States in Logan against the United States, One hundred and forty-fourth United States, pages 263 to 309. The exact quotation is on page 309.

> Doubtless in all cases of conspiracy the action of one conspirator in the prosecution of the enterprise is considered the act of all and is evidence against all. But only those acts and declarations are admissible under this rule which are done and made while the conspiracy is pending and in furtherance of its object.

Not "or in furtherance of its object," but "and in furtherance of its object." There must coexist two things, a pending conspiracy and a statement or declaration or act in furtherance of the object of the conspiracy while it is pending.

In Brown *v.* The United States (150 U. S., 98), after quoting the clause which I have just read from the Logan case, and stating the facts, which I will not weary you or the Senate with, the Supreme Court proceeds:

> If a conspiracy was sought to be established affecting the plaintiff in error, it would have to be by testimony introduced in the regular way so as to give the accused the opportunity to cross-examine the witness or witnesses. It could not be established by acts or statements of others directly admitting such a conspiracy, or by any statement of theirs from which it might be inferred.

In Greenleaf on Evidence—reading from the paragraph which Mr. Manager FLOYD quoted the other day when this question was raised—I read this:

> Declarations of conspirators: The same principles apply to the acts and declarations of one of a company of conspirators in regard to the common design as affecting his fellows. Here a foundation must first be laid by proof sufficient in the opinion of the judge to establish prima facie the fact of conspiracy between the parties, or proper to be laid before the jury as tending to establish such fact. The connection of the individuals in the unlawful enterprise being thus shown—

That is by original proof—

> every act and declaration of each member of the Confederacy, in pursuance of the original concerted plan and with reference to the common object, is, in contemplation of law, the act and declaration of them all, and is therefore original evidence against each of them. (Greenleaf on Evidence, 14th Ed., Vol. I, pp. 149, 150.)

But you will perceive, sir, it is only the things done in furtherance of the conspiracy. First, you must show the conspiracy, then you may admit the declarations made in furtherance of it, but not declarations which are made or statements of things which have preceded the time of the statement.

Now, I read from Taylor on Evidence, because in that and one other authority it is more clearly put than in any I have yet been able to find. In section 593 he says:

> Care, however, must be taken to distinguish between declarations, which are either acts in themselves purporting to advance the object of the criminal enterprise, or which accompany and explain such acts, and those statements, whether written or oral, which, although made during the continuance of the plot, are, in fact, a mere narrative of the measures that have already been taken. These last statements are, as before explained, inadmissible. The distinction here referred to may be well illustrated by the case of Hardy, who was prosecuted for high treason. There a letter written by a coconspirator to a private friend, unconnected with the plot, which gave an account of the proceedings of a society to which the writer and the defendant were proved to have belonged and which inclosed several seditious songs stated to have been composed by the writer and sung by him at a meeting of the society, was rejected on the ground that it was not a transaction in support of a conspiracy, but merely a relation of the part which the writer had taken in the plot, and, as such, only admissible against himself.

In the case of State *v.* Gilmore—and I am reading from 35, Lawyers' Reports, Annotated—at page 1088 this is said:

> To render such evidence admissible two conditions are absolutely essential: (1) That the acts or declarations sought to be shown were done or made pending the conspiracy, and (2) they were in promotion of its object or design. * * *
>
> The theory of the State seems to have been that the alleged conspiracy might be shown by declarations of the deceased alone. No authority so holding has been cited, and none can be found. Certainly nothing said in State *v.* Crawford warrants such a conclusion. There a letter written by the victim of abortion to her paramour, after the latter was shown to have entered into a conspiracy with the defendant therein, was held to be admissible in evidence as tending to establish her connection with the conspiracy; that is, that she was either joining in the enterprise of the other two or entering into an unlawful arrangement with the one addressed. But no one will pretend that this letter alone implicated the defendant therein. Nor is there any ground for saying that the declarations of deceased alone tended to connect this defendant with any conspiracy. As to him, these were in the nature of hearsay, until there was prima facie proof of some unlawful arrangement or agreement between them, in which event they were a part of the res gestæ.

Now, sir, I do not think it worth while to undertake to answer Mr. Manager STERLING's argument that there is some particular weight to be given to the fact that Mr. Watson was attorney for Boland. I care not who he was attorney for. The question which here is raised is, whether or not they were partners or conspirators in an unlawful act, which two were the judge and Watson.

In closing the argument, sir, I only want to bring home to you an illustration which seems to me will fit exactly everything that appears in this case.

Let us suppose that an indictment is found against a Member of Congress, charging him with misdemeanor in office, in that he has undertaken, for a consideration, to obtain the appointment of some other party to a public position, and upon the trial this proof is adduced: It is shown that the defendant, the Member of Congress, together with the applicant for the office, went to other Members of Congress and to friends of the President, and to the President himself, and urged upon the President that he should appoint this particular man to office, and in that state of the case there was a proffer of proof by a third party, that the applicant had said to him that the consideration for which the Member of Congress was using his influence in the way stated was that he, the Member of Congress, should receive a portion of the salary that the applicant would get if he were appointed to the office.

Now, does anyone suppose for a moment that that evidence would be admitted? And yet that, I submit, is an exactly parallel case to the one that is here. You have two people in each case acting together for a common purpose—to wit, in the one case to obtain an appointment to office; in the other, to settle some pending controversy. You have in the one case a proposition to prove by a third party the statement of one of the persons as to the consideration for which it is said the defendant in the particular case was acting, just exactly as the question which is here read.

The fault in each case—the fault in the offer of proof in the supposed case, and the fault in the offer of proof in this case, entirely outside of the question to which I have adverted somewhat at length, on the subject of the fact that it was something said in the past—the fault in each case rests on the assumption that the endeavor to help a man is a wrong, whether the helping of a man is by a Member of Congress who in the future may obtain favors from the President or from the applicant, or from a judge on the bench who may obtain in the future favors from somebody else, makes no difference whatsoever. There must be shown first that there was existing that which was wrongful; not the mere intention to help, but that that intention to help was wrongful in and of itself because of something connected with it, before there can be admitted the declarations of one party against the other.

Mr. WORTHINGTON. Mr. President, I simply wish to call attention to the precedent cited by Mr. Manager STERLING and which Mr. Simpson had no opportunity to look at. Mr. Manager STERLING did not give us the page or state what the question was, but while Mr. Simpson was speaking I asked Mr. STERLING for it, and he referred to Third Hinds' Precedents, at the top of page 561, where the ruling was made on which he relies, and that is:

> At the end of the debate the Chief Justice said:
> "The Chief Justice is of opinion that no sufficient foundation has been laid for the introduction of this testimony. He will submit the question to the Senate with great pleasure, if any Senator desires it. The question is ruled to be inadmissible."
> Mr. Jacob M. Howard, of Michigan, a Senator, asked that the question be taken by the Senate; and being put, "Shall the question proposed by Mr. Butler be put to the witness?" the yeas were 28 and the nays 22.
> So the question was put.

Hinds simply gives the outlines of these things, and it is impossible from what he says of it to know just what the question was. But in the official report of the Johnson trial, in which there is a full statement of everything that took place—by the official reporters, F. and J. Rives and George A. Bailey—published just after the trial, I find the exact language.

Mr. Manager STERLING. Mr. President, may I interrupt the counsel?

Mr. WORTHINGTON. Certainly.

Mr. Manager STERLING. You will find, if you read Hinds, that the question called for statements which President Johnson had made to Thomas and which Thomas had made to this witness—statements about things which had already occurred—and it answers everything that the gentleman said on that side of the case.

Mr. SIMPSON. I would sooner take the Supreme Court of the United States on the question.

Mr. Manager STERLING. The Supreme Court of the United States has not determined differently, either.

Mr. WORTHINGTON. Either, Mr. President, Mr. Manager STERLING is in error about what was decided or he has pointed out to me the wrong decision.

I am going to call attention to what was the question that was decided in the language that I have read. I presume the Members of the Senate remember at least the outlines of the case against President Johnson, so far as it relates to what was involved in this question. The President had undertaken to remove Mr. Stanton from the office of Secretary of War and to appoint Lorenzo Thomas, the Adjutant General of the Army, as his successor, in violation of what was called the tenure-of-office act, which made it a criminal offense for the President to do that; and the President being impeached, charged with having entered into a conspiracy with Gen. Lorenzo Thomas to violate the tenure-of-office act, Gen. Thomas is on the stand and is being questioned, and this is the question:

Shortly before this conversation about which you have testified, and after the President restored Maj. Gen. Thomas to the office of Adjutant General, if you know the fact that he was so restored, were you present in the War Department and did you hear Thomas make any statements to the officers and clerks, or either of them, belonging to the War Office as to the rules and orders of Mr. Stanton?

Mr. Manager STERLING. After reading that, does the counsel for the respondent insist that Gen. Thomas was the witness to whom the quesiton was put? It was a third party.

Mr. WORTHINGTON. No; Mr. Burleigh, a delegate, was the witness. Yes; I made a mistake about that. But it was as to the declarations of Gen. Thomas. Gen. Thomas was a witness, and these questions were raised on his examination, too. But this question was whether the witness was present and heard Gen. Thomas make these statements. What statement? Statements as to what President Johnson had said? Nothing of the kind.

Shortly before this conversation about which you have testified, and after the President restored Maj. Gen. Thomas to the office of Adjutant General, if you know the fact that he was so restored, were you present in the War Department and did you hear Thomas make any statements to the officers and clerks, or either of them, belonging to the War Office as to the rules and orders of Mr. Stanton or of the office which he—Thomas—would revoke, relax, or rescind in favor of such officers and employees when he had control of the affairs therein? If so, state when, as near as you can, it was such conversation occurred, and state all he said as nearly as you can.

The question asked the witness there was whether he heard Gen. Thomas say what he was going to do when he got in control of the War Department and not a word as to what President Johnson had said.

In the report I have here, which I was about to read, there is given what Hinds in his work does not give. It gives not only the question and the discussion and the ruling and the overruling of the Chief Justice by the Senate but the testimony given in reply to the question, and here it is:

The general remarked to me that he had made an arrangement to have all the heads or officers in charge of the different departments of the office come in with their clerks that morning, and he wanted to address them. He stated that the rules which had been adopted for the government of the clerks by his predecessor were of a very arbitrary character, and he proposed to relax them.

And so on about that conversation, about what he was going to do when he got hold of the War Department. Not one word about what President Johnson had said to him. As a matter of fact, in that trial the turning point of the rules of evidence in that case was the great question of whether the President should be allowed to prove the conversation he had had with members of his Cabinet before he undertook to remove Mr. Stanton, and after one of the most able and lengthy discussions ever heard in a court on a question of evidence it was ruled out, and the Senate held the evidence could not be introduced.

So the only precedent that is brought here in support of the contention of Mr. Manager STERLING is one which has not anything to do with the case.

The PRESIDENT pro tempore. The Chair has ruled on this question, and the managers have asked that it be again considered. The present occupant of the Chair is but the mouthpiece of the Senate, and the matter having again been brought to the attention of the Senate for consideration, it being deemed on each side a vital one, the Chair thinks under the circumstances it should be submitted to the Senate. Having once ruled on it, the Chair does not think it would be proper under the circumstances to rule on it again.

Mr. SMOOT. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Utah suggests the absence of a quorum. The Secretary will call the roll of the Senate.

The Secretary called the roll, and the following Senators answered to their names:

Bacon	Crane	Gronna	McLean
Brandegee	Crawford	Hitchcock	Martin, Va.
Bryan	Culberson	Jackson	Martine, N. J.
Burnham	Cullom	Johnston, Ala.	Myers
Burton	Curtis	La Follette	Nelson
Chilton	Fletcher	Lea	O'Gorman
Clapp	Foster	Lodge	Oliver
Clark, Wyo.	Gallinger	McCumber	Overman
Page	Reed	Smoot	Townsend
Paynter	Root	Stone	Warren
Penrose	Simmons	Sutherland	Wetmore
Perkins	Smith, Ga.	Swanson	Williams
Perky	Smith, Md.	Thornton	Works
Pomerene	Smith, Mich.	Tillman	

Mr. CULBERSON. I desire to state, for the day, that the Senator from Oregon [Mr. CHAMBERLAIN] is detained from the Chamber on business of the Senate.

Mr. BRYAN. Mr. President, I have been requested to announce that the junior Senator from South Carolina [Mr. SMITH] is absent on business of the Senate.

The PRESIDENT pro tempore. Upon the call of the roll 55 Senators have answered to their names. A quorum is present.

The Chair will submit to the Senate the question which was propounded by the managers and which was objected to on the part of the respondent. The Secretary will read the question.

The Chair will state, before the question is read, that this question was propounded by the managers and objected to by counsel in behalf of the respondent; and the question before the Senate is, Shall the testimony be admitted in evidence? The Secretary will now read the question.

The Secretary read as follows:

Q. (By Mr. Manager FLOYD.) Now, Mr. Boland, I will ask you to state whether or not during the course of these negotiations you had any conversations with Mr. Watson relative to Judge Archbald's interest or participation in this settlement, and particularly as to whether he was to share in the fee or receive any money or other pecuniary consideration for his services in attempting to make that settlement?

The PRESIDENT pro tempore. Senators, as your names are called, those who favor the admissibility of the evidence will respond "yea," those who are opposed to its admissibility will, as their names are called, respond "nay."

The Secretary called the roll, which resulted as follows:

YEAS—29.

Ashurst	Gronna	Myers	Smith, Ga.
Chilton	Hitchcock	O'Gorman	Stone
Clapp	Johnston, Ala.	Overman	Swanson
Crawford	Kenyon	Perkins	Thornton
Culberson	La Follette	Perky	Tillman
Cullom	Lea	Pomerene	
Curtis	Martin, Va.	Reed	
Foster	Martine, N. J.	Simmons	

NAYS—25.

Brandegee	Gallinger	Page	Townsend
Bryan	Jackson	Penrose	Warren
Burnham	Lodge	Root	Wetmore
Burton	McCumber	Sanders	Works
Clark, Wyo.	McLean	Smith, Mich.	
Crane	Nelson	Smoot	
Fletcher	Oliver	Sutherland	

NOT VOTING—40.

Bacon	Chamberlain	Gore	Percy
Bailey	Clarke, Ark.	Guggenheim	Poindexter
Bankhead	Cummins	Johnson, Me.	Richardson
Borah	Davis	Jones	Shively
Bourne	Dillingham	Kern	Smith, Ariz.
Bradley	Dixon	Lippitt	Smith, Md.
Briggs	du Pont	Massey	Smith, S. C.
Bristow	Fall	Newlands	Stephenson
Brown	Gamble	Owen	Watson
Catron	Gardner	Paynter	Williams

Mr. CULBERSON (after having voted in the affirmative). I will ask if the Senator from Delaware [Mr. DU PONT] has voted.

The PRESIDENT pro tempore. The Chair is informed that he has not voted.

Mr. CULBERSON. As I have a general pair with the Senator from Delaware, I withdraw my vote.

Mr. LODGE. Mr. President, I do not understand that pairs can be announced.

Mr. CULBERSON. If it is generally understood that pairs are not to prevail in a matter of this kind, I will let my vote stand.

Mr. GALLINGER. On that point, Mr. President, I will state that I have a general pair, but I did not suppose it applied in this case and so I voted.

Mr. O'GORMAN. Mr. President, may I state, in explanation of the absence of the junior Senator from Maine [Mr. GARDNER] that he is necessarily absent from the Chamber on public business?

The PRESIDENT pro tempore. On this question there are 29 votes in the affirmative and 25 votes in the negative. So the Senate has ordered that the question be propounded.

Mr. Manager FLOYD. Mr. President, shall I proceed?

The PRESIDENT pro tempore. The manager will propound the question passed upon by the Senate.

Mr. Manager FLOYD. We ask that Mr. C. G. Boland be recalled.

Q. (By Mr. Manager FLOYD.) "Now, Mr. Boland, I will ask you to state whether or not during the course of these negotiations you had any conversation with Mr. Watson relative to

Judge Archbald's interest or participation in this settlement, and particularly as to whether he was to share in the fee or receive any money or other pecuniary consideration for his services in attempting to make that settlement?" You may now answer that question.—A. Yes, sir.

Q. State what those conversations were.—A. The conversation I recall occurred in pursuance of information my brother conveyed to me that explained an increase in price which Mr. Watson proposed over what he was authorized to sell the two-thirds interest of the Marian Coal Co. for.

Q. Do not state what your brother said, but just what Mr. Watson said to you.—A. He asked me to go and see Mr. Watson with him, which I did. Mr. Watson confirmed to me, in his presence, what he had told him regarding the distribution of the increased amount which he proposed to add to the price we had authorized him to ask when he was employed by myself to make the sale of the stock of the company held by the majority interest; that is, two-thirds of the stock in the Marian Coal Co.

Q. Will you not answer the question as to what Mr. Watson said touching the matters referred to in the original question—what Mr. Watson said to you?—A. Mr. Watson said it was necessary to make this addition in order to——

Q. You mean additional increase?—A. Additional increase.

Q. In the price. How much was it?—A. I am not positive now.

Q. About how much?—A. As to what they figured out, it was fixed in my mind as between $40,000 and $50,000 additional.

Q. Now, go ahead and state what he said about that.—A. He said that as the judge was assisting him in the matter he felt that he ought to be compensated, and that he proposed to compensate him by one-fourth of the amount he was to receive in excess of $95,000, which was the price it was to net us.

Q. Was anything further said in that conversation about it?—Not that I now remember.

Mr. Manager FLOYD (to counsel for the respondent). You can take the witness.

Cross-examination:

Q. (By Mr. SIMPSON.) When was this conversation?—A. It was some time in September, I believe, 1911.

Q. At any rate, it was some six months before the time you testified before Mr. Wrisley Brown, which was March 18, 1912?—A. Yes, sir.

Q. Let me read a portion of your testimony before Mr. Wrisley Brown.

Mr. Manager FLOYD. What page do you read from?

Mr. SIMPSON. I am reading from page 247 of Volume I.

Mr. BROWN. Did Watson give you any intimation of what was to become of this large excess over the $100,000?
C. G. BOLAND. No.
Mr. BROWN. You did not concern yourself about it?
C. G. BOLAND. No.

Q. Do you remember that testimony?—A. I do. It was when Mr. Brown first called upon me, and had a stenographer make notes of what I said to him. May I explain further?

Q. I do not care whether you explain or no.—A. In order to avoid any discussion of that matter, which I felt was unfair to Judge Archbald, as I did not want to use any information given me by Mr. Watson to reflect upon the character of the judge, I answered as the record indicates.

Q. Were you sworn before Mr. Brown?—A. No, sir.

Q. Did not you yourself prepare that statement for Mr. Brown?—A. No, sir.

Q. Let me read your testimony before the Judiciary Committee, on page 1034, gentlemen:

Mr. WORTHINGTON. Did you make a statement to Mr. Wrisley Brown?
Mr. BOLAND. I did.
Mr. WORTHINGTON. That was written out and signed?
Mr. BOLAND. He asked me to have it reduced to writing, and I did, at his request.

A. Yes, sir; but the statement which I made and signed, I found only last night in reading the testimony, did not appear in the testimony. It was the stenographer's notes, sworn to by the stenographer, I believe, Mr. Brown used instead of the statement which I signed.

Q. And the stenographer was your niece, your own stenographer in your own office?—A. Yes, sir.

Q. And she swore on April 6, 1912, that that is what you said?—A. Yes, sir.

Q. Was anything like that ever said in Judge Archbald's presence?—A. No, sir.

Q. Or was it ever called to his attention by you or by anybody else, as far as you know?—A. No, sir.

Q. Was it ever said on any other than the one occasion?—A. Not that I remember. You mean, of course, by Mr. Watson?

Q. Yes; by Mr. Watson.—A. I do not recall having had any other conversation with Mr. Watson in regard to it.

Q. Let me read from your testimony before the Judiciary Committee, on page 1017, gentlemen:

Mr. WORTHINGTON. I understood you to say on Friday, Mr. Boland, and I ask you whether it is a fact, as to Judge Archbald having any pecuniary interest in this proposed settlement, all you know is that Watson said he thought he was entitled to some compensation?
Mr. BOLAND. That is all.

Is that true?—A. That is my testimony, undoubtedly.

Q. Is it true? That was my question.—A. Yes; to the best of my recollection that was true.

Q. That was true, and you were sworn before the Judiciary Committee and testified to that May 20, 1912, did you not?—A. Yes, sir; if it be recorded there.

Q. I read again, gentlemen, from page 1018:

Mr. BOLAND. No; the statement of Mr. Watson was that the judge would be very influential in bringing this sale about, and that he intended to have him compensated for it. I think that was substantially the language he used.
Mr. WORTHINGTON. That was all he said, then, that bore upon the question of of Judge Archbald receiving anything out of this?
Mr. BOLAND. Substantially all.

Is that true?—A. That is my recollection.

Mr. Manager FLOYD. Mr. President, the only purpose for which these questions could be asked would be to contradict the witness. That is exactly what I understood him to say. It is not a contradiction of his testimony, but a confirmation of it.

Mr. SIMPSON. Very well; if you find confirmation you can argue accordingly. I propose to argue that it is not.

Mr. Manager FLOYD. Very well.

The PRESIDENT pro tempore. The counsel has the right to cross-examine the witness.

Q. (By Mr. SIMPSON.) I am reading again from page 995:

Mr. LITTLETON. Did you ever talk to Judge Archbald, in the presence of Watson, or to Judge Archbald alone, or in the presence of any other person, about this transaction, when he intimated, or it was intimated in his presence, that he was to receive a financial consideration for the loan of his influence?
Mr. BOLAND. No, sir.

Is that true?—A. It is.

The PRESIDENT pro tempore. The Chair would suggest to counsel that it is proper to interrogate the witness, and then if he does not answer in accordance with his previous testimony to read his former answer to him.

Mr. SIMPSON. I only read it because I thought it would expedite the matter. I would just as leave take it the other way.

The PRESIDENT pro tempore. The Chair merely suggested that the proper manner is to ask the question of the witness and then if he does not answer it according to his previous testimony to read the answer previously given.

Mr. SIMPSON. I was not going to read what he testified to in the question I was about to ask.

The PRESIDENT pro tempore. The Chair begs the counsel's pardon. He misunderstood him.

Q. (By Mr. SIMPSON.) Did Mr. Watson ever say to you that Judge Archbald demanded any consideration for his services in attempting to bring about this settlement?—A. No, sir.

Q. Did you ever testify heretofore that anybody was ever present at any conversation on this subject between you and Mr. Watson, save only you and Mr. Watson?—A. When the conversation occurred my brother was present. I went at his invitation to Mr. Watson.

Q. You are not answering my question. Did you ever testify, in all the elaborate examination which was made of you, that anyone else was ever present at any such conversation except you and Mr. Watson?—A. I do not remember having so testified. I may have.

Q. Have you given the whole of the conversation that took place on that day?—A. I could not say.

Q. Have you given even the substance of it?—A. As near as I can remember; yes.

Q. Did you not testify before that there were other people mentioned who were to get a portion of that consideration?—A. I said that in so far as it referred to Judge Archbald, that was all.

Q. Oh, I did not ask you that. I ask you whether you had given the substance of the conversation which occurred that day. I will ask it of you again. Did you?—A. There were other names mentioned that day.

Q. What other names were mentioned of persons who were to get a part of that consideration?

The WITNESS. Am I obliged to answer that, Mr. President?

The PRESIDENT pro tempore. The Chair is not able to reply unless the witness objects and gives the ground of his objection.

The WITNESS. I objected before the Judiciary Committee to answering this question that was put to me there, and to

giving those names, and I should seriously object unless I am obliged to give that information.

Mr. SIMPSON. I insist upon the question. The witness can not give a part of the conversation.

The PRESIDENT pro tempore. The witness will have to give the testimony unless he can give good grounds upon which he claims the right to be excused.

The WITNESS. I have heard from the other gentlemen mentioned who were alleged to participate in this amount, and my own belief is now that the statement made regarding them was not true. Therefore I do not think it is fair that their names should be given.

Q. (By Mr. SIMPSON.) That is all the more reason why it should be given, and I insist upon your saying what other names were mentioned as people who were to share in this excess over the $100,000?—A. The names mentioned by Mr. Watson were Mr. R. A. Phillips and another gentleman in New York whose name he said he did not want to mention, but I learned he had mentioned to my brother, Mr. E. E. Loomis.

Q. Did you not testify before the Judiciary Committee that it was Loomis who was mentioned?—A. Yes, sir.

Q. Did you not testify before the Judiciary Committee that at this particular conversation, which you said was the only conversation between you and Watson, the three names that were mentioned besides Watson himself who were to share in the excess were Loomis, Phillips, and Judge Archbald?—A. Yes, sir.

Mr. SIMPSON. That is all, sir.

Redirect examination:

Q. (By Mr. Manager FLOYD.) Now, Mr. Boland, you say that you made a statement to Mr. Wrisley Brown about this matter in which you answered "no" to some of these questions that you have answered in the affirmative to-day?—A. Yes, sir; when Mr. Brown called——

Q. What is your explanation of that?—A. Mr. Brown came into my office, as I remember, and wanted to know what I knew about this matter of the attempted sale of the stock of the Marian Coal Co. to the Delaware, Lackawanna & Western Railroad Co.

Q. Did he have a stenographer with him?—A. He had a stenographer with him. I did not want to go into the matter with him at all, because I felt reluctant to testify in the matter.

Mr. SIMPSON. I object to the thoughts unexpressed of this witness. Mr. Manager FLOYD has not asked for it, but the witness undertakes to explain it.

Mr. Manager FLOYD. I asked him to explain, and that, I think, involves what he is stating.

Mr. SIMPSON. He has a right to say what he did, but not to give the reason unexpressed to anybody.

Mr. Manager FLOYD. We insist on the right of the witness to answer the question.

The PRESIDENT pro tempore. The Chair thinks he can state what motive impelled him to do what he did.

The WITNESS. In relation to these two questions which I find in the record answered "no" by me?

Q. (Mr. Manager FLOYD.) That is what I am asking you about.—A. My reason for answering Mr. Brown in that way was because I did not want to enter into a discussion of that matter with him, and I felt if I answered "yes," as I could have done, it would lead to a discussion which would probably make it necessary for me to reveal to him the information I obtained from Mr. Watson, which I did not want to use as a reflection upon the character of Judge Archbald.

Q. Now, tell us how that statement that you did give Mr. Brown was prepared, whether it was made from the stenographer's notes or whether you prepared it yourself?—A. It was made wholly, I believe, from the stenographer's notes.

Q. Did you include in that statement all that was put down in the stenographer's notes or did you cut out a part?—A. The statement as contained in the record contains all of the stenographer's notes, together with an additional paragraph explaining a mistake of the stenographer when I testified before the Attorney General as to the circumstances under which I refused to discount the $500 note. I find from reading the notes——

Q. Just keep on this other transaction now. Have you any further explanations to make as to why you answered in the negative questions that you now answer in the affirmative?—A. No. I afterwards told Mr. Brown that I would make a statement and sign it. I only wanted to state to him those things which I knew of my own knowledge and which I could prove, and I made up such a statement; but the stenographer's notes of my first conversation with him were used by Mr. Brown and not the statement which I had signed.

Q. I will ask you to state whether or not you were asked by Mr. Brown to swear to the stenographer's notes and whether or not you refused to swear to it?—A. I did.

Q. You refused to swear?—A. Yes, sir.

Q. You refused to swear to the stenographer's notes?—A. He asked me, and I did not think it was necessary to swear to them.

Q. And you did not?—A. No.

Q. They were not made, then, under oath?—A. No, sir.

Q. State whether or not you refused to give Mr. Brown any statement at all at first.—A. I was rather inclined not to give him any statement if I could have avoided it.

Q. Well, why?—A. Because I was reluctant to enter into the matter at all.

Q. Why were you reluctant to enter into the matter?—A. Well, as to that particular question, I was reluctant to enter into it because I would have to give him information obtained from Mr. Watson, which I did not feel ought to be used in the connection in which he was seeking information, because it was only the statement of Mr. Watson as against the judge and these other gentlemen, and I was not sure whether or not it was true.

Q. Then, if I understand you, the reason you answered those questions in that way was to protect Judge Archbald and these two other gentlemen from the statements made to you by Watson. Is that it?—A. Practically; that is true.

Q. Why were you reluctant to give Mr. Brown any statement at all about the matter?—A. I do not think I was reluctant to give him any statement. I had previously made a statement before the Attorney General here in Washington.

Mr. Manager FLOYD. That is all.

Mr. Manager CLAYTON. We are willing that this witness shall be discharged.

Mr. SIMPSON. This witness is under subpœna by the respondent, I will state, that there may be no misunderstanding about it.

The PRESIDENT pro tempore. Very well; he is only discharged from the present subpœna and not from the other.

Mr. PAYNTER. Mr. President, I entered the Chamber just as the yeas and nays were being taken on the submission of this testimony to the Senate. I refrained from voting because I did not think I was sufficiently advised to pass an opinion upon the question. Since hearing the facts, I should like to be recorded upon the vote.

The PRESIDENT pro tempore. The Chair can not now reopen the vote, but the Senator can make a statement.

Mr. PAYNTER. May I be permitted to state, then, that I would have voted "nay," and I would now vote "nay" on the question.

CHARLES W. GUNSTER.

Mr. Manager STERLING. Mr. President, it is admitted, I believe, that Charles W. Gunster was cashier of the Merchants & Mechanics Bank of Scranton in November and December, 1909, that E. J. Williams presented for discount the $500 note testified to yesterday by John Henry Jones, and that the bank refused to discount it.

Mr. WORTHINGTON. I understood that the testimony which that witness gave before the Judiciary Committee might be read. What the manager states does not fix the date of the transaction.

Mr. Manager STERLING. It was during that time.

Mr. WORTHINGTON. Is there any objection to reading the testimony?

Mr. Manager STERLING. It would take that much time.

Mr. WORTHINGTON. It is very short.

Mr. Manager STERLING. We can call the witness in less time. The managers asked if counsel would admit the material facts.

Mr. WORTHINGTON. I understood the managers to state that the deposition before the Judiciary Committee might be read.

Mr. Manager STERLING. I did not make any such request. We can call the witness in less time. Will the counsel admit the statement?

Mr. WORTHINGTON. I should like to have the exact date given by the witness.

Mr. Manager STERLING. It can not be given by the witness, but it was in the month of November or December, 1909.

Mr. Manager CLAYTON. That is admitted then?

Mr. SIMPSON. Yes; we admit it.

TESTIMONY OF ROLLIN B. CARR.

Rollin B. Carr appeared, and having been duly sworn was examined and testified as follows:

Q. (By Mr. Manager STERLING.) State your name.—A. Rollin B. Carr.

Q. Where do you live?—A. Scranton, Pa.

Q. What is your business?—A. Cashier of the Providence Bank.

Q. In Scranton?—A. Yes, sir.

Q. Who is the president of that bank?—A. C. H. Von Storch.

Q. As cashier of that bank did you discount a note of $500 made by John Henry Jones to Robert W. Archbald and indorsed by Mr. Archbald and E. J. Williams?—A. Yes, sir.

Q. Have you the note with you?—A. No, sir; not the original note.

Q. When was that?—A. If I may refer to my discount ledger. [Examining.] It was December 13, 1909.

Q. Who presented that note?—A. I am under the impression that Mr. Jones did.

Q. John Henry Jones?—A. Yes, sir.

Q. Had you had any communication from the president, Mr. Von Storch, about the note before you discounted it?—A. Yes, sir; I had.

Q. In what way?—A. Over the telephone.

Q. What did the president say to you?—A. He said that there would be a note of John Henry Jones, indorsed by Judge Archbald, for $500 presented to the bank and to cash it for him.

Q. Has that note been paid?—A. No, sir.

Q. Has it been renewed from that time to this?—A. Yes, sir; with a slight reduction on it.

Q. How many renewals have been made?—A. You would have to trace it in periods of about four months from 1909 to the present time.

Q. How often was it renewed?—A. Three months, I think, on the average.

Q. Renewed in the same form?—A. Yes, sir; up to two months ago.

Q. Have you the present renewal?—A. Yes, sir.

Q. With you?—A. Yes, sir.

Mr. Manager STERLING. Just give it to the Secretary.

(The paper was handed to the Secretary.)

Mr. Manager STERLING. I will offer it and ask the Secretary to read it.

The PRESIDENT pro tempore. The Secretary will read the paper.

The SECRETARY. It reads as follows:

[U. S. S. Exhibit 84.]

(Renewal. $455.)

SCRANTON, PA., *December 6, 1912.*

One month after date I promise to pay to the order of R. W. Archbald at the West Side Bank, Scranton, Pa., $455. without defalcation or stay of execution, for value received.

J. HENRY JONES.

A little note in the left-hand lower corner:

January 6.

On the back is the indorsement, "R. W. Archbald," and a number, "11840," with the machine.

Q. (By Mr. Manager STERLING.) That is for one month?—A. Yes, sir.

Q. They were not all 30-day notes?—A. No; only the last three months. I think the last three months it was for a month.

Q. Who has paid the interest on that note?—A. I imagine Mr. Jones.

Q. And who made the partial payment?—A. Mr. Jones.

Q. Is Mr. Von Storch in other business than president of the bank?—A. He is an attorney at law.

Q. Practicing in Scranton?—A. Yes, sir.

Mr. Manager STERLING. That is all.

Mr. SIMPSON. We have no questions to ask.

Mr. Manager STERLING. I should like to ask the counsel if we may have the privilege of putting a copy of this note in the record, and the bank can take it back.

Mr. SIMPSON. Of course, just let the clerk make a copy of it, and that will be the end of it. There is no use of keeping an original paper of that kind.

Mr. Manager STERLING. Just one more question. Is E. J. Williams on that note as an indorser, Mr. Secretary?

The SECRETARY. There is but one indorser on the back of the note—"R. W. Archbald."

Q. (By Mr. Manager STERLING.) When did E. J. Williams cease to indorse the note?—A. I think it was about four months ago.

Q. Up to that time he had indorsed its renewal?—A. Yes, sir.

Cross-examination:

Q. (By Mr. SIMPSON.) Mr. Carr, will you kindly read the entries in your discount ledger, so that we may just get the facts in regard to it as now appearing in the bank's record?—A. Yes, sir. The note was dated December 3, 1909; the maker was John Henry Jones; and the indorsers were R. W. Archbald and E. J. Williams; it was payable at the Merchants and Mechanics Bank at Scranton; it was for four months; and it was discounted on December 13 for $500.

Mr. WORTHINGTON. In 1909?

The WITNESS. In 1909; yes, sir.

Mr. SIMPSON. That is all we want with the witness, Mr. President.

The PRESIDENT pro tempore. The witness may retire.

Mr. Manager STERLING. Mr. President, there is one more witness, Mr. Von Storch, on articles 8 and 9. He will be here presently. In the meantime I want to call Mr. Lenahan, who is to testify on another article—article No. 7.

TESTIMONY OF JOHN T. LENAHAN.

John T. Lenahan, being duly sworn, was examined and testified as follows:

Q. (By Mr. Manager STERLING.) Mr. Lenahan, where is your home?—A. Wilkes-Barre, Luzerne County, Pa.

Q. How far is that from Scranton?—A. About 20 miles.

Q. At the present time you are a Member of Congress?—A. Not now; I was a Member of the Sixtieth Congress.

Q. You are a lawyer?—A. I profess to be.

Q. Do you know Mr. Rissinger?—A. Very well.

Q. W. W. Rissinger?—A. Yes, sir.

Q. Where is his home—A. His home is in Scranton.

Q. You were his attorney in 1908 with reference to some litigation against the insurance companies?—A. Yes, sir.

Q. State briefly what the character of that litigation was.—A. Well, I had several suits for him, but the one bearing upon this question was a case against several insurance companies arising out of a fire on the property belonging to the Plymouth Coal Co., I think the name of it was. The Rissinger Bros. were the stockholders and the sole stockholders in the company. Suits were brought in the local courts of Luzerne County against the insurance companies. Those that could be moved into the United States court, of which I think there were two or three, were moved by the insurance companies into the United States district court at Scranton.

Q. I will ask you was there a separate suit against each insurance company?—A. Yes, sir; on each policy.

Q. When were those that were removable removed to the Federal court?—A. I do not know when they were removed, but they were tried, I think, in October or November, 1908.

Q. Who was the presiding judge of the district court?—A. Judge Archbald.

Q. Did you try the cases?—A. There was one case called. The plaintiff established his case as to this one suit, and a motion was made for a nonsuit, which was overruled. The defendant then called one or two witnesses in the case, and after a cross-examination of one or two witnesses the counsel for the insurance companies suggested to me that we arrive at some terms of settlement. After a good deal of fencing on one side and the other we did arrive at terms of settlement. That counsel represented all the insurance companies. There was a verdict taken under certain stipulations. As I recall it now, if the whole money on all the policies was paid within 15 days, then the amount of money as fixed in that stipulation was to be accepted by us.

Q. What was the amount?—A. I can not recall the amount.

Q. Was it $23,000?—A. The whole thing was something over $20,000; it was somewhere between $20,000 and $25,000. As I recall the stipulation, if it was not paid in 15 days then the whole face of the policies was to be paid.

Q. What was the amount of that?—A. $23,000, if that was the amount; somewhere between $20,000 and $25,000. Not only the amount of the policy involved in that particular trial was to be paid, but also all the other policies, as I recall it.

Q. Was W. W. Rissinger plaintiff in all of those cases?—A. He represented the Plymouth Coal Co.—I think that was the name of it—which was a corporation in which W. W. Rissinger and his brother owned almost all the stock, if not all the stock.

Q. After this case was tried did Rissinger see you with reference to a note signed by Judge Archbald?—A. Mr. Rissinger came to my office in Wilkes-Barre; I can not give dates, but I know it was some time previous to the meeting of the short session of Congress in December.

Q. Let me ask you, was it within the 15 days in which the insurance companies had to pay the judgment?—A. Talking from memory, I believe it was.

Q. Just state what he said to you.—A. He came into my office and asked me if I could get a note of $2,500 discounted for him in a Wilkes-Barre bank. I said to him, "What do you want this money for?" "Why," he said, "I want to raise it in order to pay something on a gold speculation that I have in Honduras." I looked at him, and I said, "No; if I took this note over to my bank"—the bank in which I am a director and vice president—"and told them what you wanted this money for, they would laugh me out of the room, and think that I was as big an idiot

as you are and as are many other idiots that we have in this county and in Lackawanna and the coal regions who put their money in Colorado gold mines and Utah gold mines, and have no return for it," I said, "except simply pure salt." "Sometimes it makes them dryer for more," I said.

Q. Did you look at the note?—A. No, sir; I did not.

Q. Who was on the note so far as you learned from Mr. Rissinger?—A. Mr. Rissinger's mother-in-law and Judge Archbald.

Q. How were they on the note—as makers or as indorsers?—A. I do not know. I did not ask that at all. I do not know whether as makers or indorsers.

Q. What did he say, if anything, about Judge Archbald's connection with the gold scheme in Honduras?—A. I asked him who was in the matter with him, and he said his mother-in-law and Judge Archbald.

Q. Did you discount the note?—A. No, sir.

Q. Did you recommend the discounting of it to your bank?—A. No, sir.

Q. I ask you if, after that, you had a talk with Mr. Reynolds, the attorney for the Marian Coal Co. in the suit which has been testified about here?—A. I think I had; yes, sir.

Mr. SIMPSON. I object to any conversation occurring between Mr. Lenahan and Mr. Reynolds in the absence of Judge Archbald, unless it was brought to Judge Archbald's attention. There is no evidence of any partnership or conspiracy between any of these gentlemen and Judge Archbald.

Q. (By Mr. Manager STERLING.) Was Judge Archbald present when you and Reynolds talked?—A. Oh, no.

Q. Did you ever tell Judge Archbald the substance?—A. No, sir.

Mr. Manager STERLING (to Mr. Simpson). Take the witness.

Cross-examination:

Q. (By Mr. SIMPSON.) Mr. Lenahan, am I correct in stating that the judgment which was agreed upon between you and your colleague on the one side and Mr. Shattuck, representing the insurance companies on the other side, was entered at once?—A. Well, I suppose it was. I was the trial lawyer, and Mr. Reynolds and Mr. Welles were concerned in the case with me. They were associated with me in it. They drew up all the formal papers. They live in Scranton, and after the verbal arrangement had been entered into I took the next train and went home.

Q. But the whole matter was concluded to go into the form of a judgment, and the only thing that was left open was the delay in payment at the request of the insurance companies' counsel?—A. Yes, sir; that was my understanding.

Q. Now, was there any difficulty about that case?—A. Well, there was difficulty in getting it tried.

Q. You mean the delay in getting it tried?—A. Yes. I was in Congress here, and I could not go up to see to it until the time I did go there.

Q. Was there any substantial merit in the defense?—A. I did not think there was; otherwise, I would not have brought suit against the insurance companies.

Q. Did the counsel on the other side admit to you that there was no substantial merit in the defense?—A. After we got to cross-examining his chief witness, he turned around to me and said, "I guess the bottom has fallen out of our case." I think that is the language he used. Then the negotiation for a settlement was opened.

Q. Your cross-examination of the witnesses produced by the insurance companies, so far as it went, was, I believe, quite severe, was it not?—A. It was understood by me to be very severe.

Q. And it was so severe that Judge Archbald——

Mr. Manager STERLING. We object to taking the time of the Senate now with immaterial things. It is not cross-examination.

Mr. SIMPSON. I think that all that related to that trial, about which Mr. STERLING inquired, is cross-examination. We ask as to a different part of what occurred. You asked him to state but one part of it and left the other out, and we want to have it all.

Mr. Manager STERLING. We asked him to state the character of the litigation.

Mr. SIMPSON. And what occurred at that trial also.

Mr. Manager STERLING. No; I did not.

Mr. SIMPSON. Excuse me, you did; but colloquy is not in order. I beg the Chair's pardon.

Mr. Manager STERLING. We object to the testimony because it is not cross-examination.

Q. (By Mr. SIMPSON.) At any rate, Mr. Lenahan, the presentation of the note to you was some time after the agreement for the entry of the judgment?—A. Oh, yes.

Q. And in accordance with what occurred at that trial?—A. Oh, yes.

Q. Will you please tell us whether or not at that trial there was any partiality shown by the judge toward Mr. Rissinger or his counsel?—A. I do not think so. He called me down.

Mr. Manager STERLING. We object.

Mr. SIMPSON (to the witness). Do not go into the details of it at all. The only reason, I understand, why you declined to discount the note was because of the purpose for which Mr. Rissinger stated to you that the money was to be used, and beyond that you did not care to go any further into it?—A. No, sir.

Q. Was Judge Archbald's name mentioned at all to you when that note was being presented?—A. I asked him who was interested. My recollection is, I said, "Who is interested with you in this gold mine in Honduras," and he told me that his mother-in-law—whose name I can not recall—and Judge Archbald were interested. I said, "Are they on the note?"—that is my recollection—and he said, "Yes." I assume they were on as indorsers and not as makers of the note.

Q. Was what has been said about the only mention made to you of Judge Archbald's name? Was that the only thing that was said?—A. Yes; that was all.

Mr. SIMPSON. I think that is all, Mr. President.

Redirect examination:

Q. (By Mr. Manager STERLING.) He said that Judge Archbald was on this note, did he not?—A. Oh, yes. My recollection is that his mother-in-law and Judge Archbald were not only interested in this Honduras gold mine, but also that they were on the note. I assume they were on as indorsers.

Q. Did you ask Mr. Rissinger why he did not get it cashed at Scranton?—A. Well, now, it is just possible I did, but I can not recall.

Q. Do you remember what Mr. Rissinger said on that subject?—A. No; I do not; but I think it highly probable that I did ask him why he should come to Wilkes-Barre, a strange town to him, and not get his note discounted in his own town.

Mr. Manager STERLING. There is one other subject I want to ask this witness about. [To the witness:] Do you remember the time that a contribution was taken up among the members of the bar at Scranton and in the county for Judge Archbald?—A. Yes, sir.

Q. About when was that?—A. It was when he went to Europe, I think, in 1910.

Q. Were you solicited to contribute to that fund?—A. Yes, sir.

Q. By whom?—A. My recollection is that I received a letter from the clerk of the district court, named Searle, and in response to it I sent him a check. When I testified before the Judiciary Committee I did not know that my attention was to be called to it, and I said it was either $10 or $25 that I sent. I now know that it was $25 that I sent.

Q. You did contribute that $25?—A. Yes, sir.

Q. Who was it that wrote you the letter asking you to contribute?—A. My recollection is that it was Mr. Searle, the clerk of the district court.

Q. What was the date of that?—A. Well, I can not tell. It was a short time before Judge Archbald sailed for Europe; I can not give the date.

Q. Was it while he was district judge?—A. Yes, sir.

Q. Or since he has been on the Commerce Court?—A. I think he was district judge then.

Q. And Searle was the clerk of the court?—A. Yes, sir.

Q. And you were a member of the bar practicing in his court?—A. Yes, sir.

Mr. Manager STERLING. That is all.

Recross-examination:

Q. (By Mr. SIMPSON). Mr. Lenahan, there is one thing on the other branch I forgot to ask you. Could you tell us what year it was that the old Plymouth Coal Co. suit against the insurance company was brought?—A. Yes, sir; I fix that by the fact that it was a month or two before the convening of the short session of Congress. It was either in October or November, 1908.

Q. In this other matter, I understand that you got a letter from Mr. Searle, and you cheerfully complied by sending that check to Mr. Searle?—A. Yes, sir.

Q. To be given with other money to Judge Archbald?—A. I know I contributed the money. It is my recollection that it was to Mr. Searle that I sent the money, and it is my recollection, too, that the solicitation came from Mr. Searle.

Q. Did you have any communication at all with Judge Archbald in regard to it?—A. Judge Archbald wrote me a letter from Florence, Italy.

Q. Acknowledging its receipt?—A. Yes, sir.

Q. But I am speaking now prior to the time when the money was presented to him?—A. Oh, no.

Q. So far as you knew or know now, Judge Archbald had no knowledge of what was going to be done until the money was, in fact, handed to him?—A. I know nothing about Judge Archbald's knowledge of it, except a letter that he wrote me from Florence—it was dated from Florence—thanking me for my contribution.

Q. That was Florence, Italy, you mean?—A. Yes; Florence, Italy.

Q. After he had sailed?—A. I said "Italy," did I not?

Q. You said "Florence." There are several Florences, but I assumed you meant Florence, Italy.—A. I meant Florence, Italy. I know it was not Florence, Ireland.

Q. I do not know that there is one there. Is there one there?—A. No.

Mr. SIMPSON. I was not aware that there was. I believe that is all, Mr. President.

The PRESIDENT pro tempore. Are there any other questions?

Redirect examination:

Mr. Manager STERLING. Just to refresh the witness's recollection I desire to ask him another question. Did you not say this before the Judiciary Committee——

Mr. WORTHINGTON. Give the page, please.

Mr. Manager STERLING. Page 1517, near the top:

Mr. LENAHAN. I asked Rissinger—of course, this was in Scranton, where he was from—I said. "Why don't you get that discounted in Scranton?" He said, "We have tried to, but I can not, and I thought on account of my relationship with you, you could get the money for me here."

A. Yes, sir.

Q. You did say that?—A. Yes, sir. Now, since you call my attention to it, I think that was the answer I made him.

Q. The relationship between you and him at the time was that of attorney and client?—A. Yes; I had been his attorney for some time in several other matters.

Q. And you were his attorney in these cases that had been disposed of?—A. Yes, sir; and in other matters.

Mr. Manager STERLING. That is all.

Recross-examination:

Q. (By Mr. SIMPSON.) I think you testified also, did you not, Mr. Lenahan, that Judge Archbald was not worldly-wise, and that was the reason he acted as he did in some of these matters?—A. That was my judgment about it.

Mr. SIMPSON. That is all. Thank you.

Mr. Manager CLAYTON. Mr. President, this witness may be discharged.

The PRESIDENT pro tempore. The witness is finally discharged.

TESTIMONY OF FREDERICK WARNKE.

Mr. Manager DAVIS. I ask that Frederick Warnke be called.

The PRESIDENT pro tempore. The witness will be called.

Frederick Warnke, having been duly sworn, was examined, and testified as follows:

Q. (By Mr. Manager DAVIS.) Your name is Frederick Warnke?—A. Yes, sir.

Q. Where do you live?—A. Scranton, Lackawanna County, Pa.

Q. What is your occupation?—A. Coal business.

Q. How long have you been in the coal business?—A. Twelve years.

Q. And you are still in that business?—A. To some extent; yes, sir.

Q. What branch of the coal business have you been engaged in?—A. Mining and——

Q. How were you engaged in the years 1910 and 1911?—A. Washing culm banks.

Q. Were you ever the owner of a mining operation at Lorberry, in Pennsylvania?—A. Yes, sir.

Q. What was the character of that operation?—A. The character at the time of our operation was washing the culm banks.

Q. Did it have any other feature aside from the culm-bank operations?—A. Yes, sir. The lease called for mining operations.

Q. Did you own that mine in fee or by lease?—A. By lease.

Q. Who was your lessor?—A. The Philadelphia & Reading Coal & Iron Co.

Q. Do the Philadelphia & Reading Coal & Iron Co. sustain any relation to the Philadelphia & Reading Railroad Co.?—A. I presume they do.

Q. Has it the same officers?—A. Yes, sir.

Q. Who was president of the Philadelphia & Reading Coal & Iron Co.?—A. George F. Baer.

Q. Is he also the president of the Philadelphia & Reading Railroad Co.?—A. Yes, sir; I think he is.

Q. Who was the general manager of the Philadelphia & Reading Coal & Iron Co.?—A. W. J. Richards.

Q. Where does Mr. Richards live?—A. I think his home is, or was, in Wilkes-Barre; I think he probably now lives in Pottsville.

Q. How far from the city of Scranton?—A. Pottsville?

Q. Yes, sir.—A. In the neighborhood of about 80 miles.

Q. Was he living there in the year 1911?—A. Well, his offices were at Pottsville and he is there the biggest part of his time. I can not say whether his residence is there or Wilkes-Barre for sure.

Q. In the course of your operation of this mine at Lorberry did you get into any difficulties with your lessor, the Philadelphia & Reading Coal & Iron Co.?—A. Yes, sir.

Q. What were those difficulties?—A. When we got ready to open up the mining operation we inquired of the engineers for the mining maps to proceed to open up the inside operations. This operation had been opened up before, but had been closed for a great many years. They refused to give us the maps, stating that the lease had been forfeited two years previously under certain sections of the lease.

Q. Had you received any notice of forfeiture?—A. No, sir.

Q. Had you been in continued possession of the property?—A. I am still in possession of the property; that is, to a certain extent; yes, sir.

Q. Were you surprised at the information that your lease was under forfeit?—A. I was surprised; yes, sir; at the time I heard it. A two-thirds interest was purchased from a person by the name of Baird Snyder, who at that time was assistant superintendent of the Lehigh Coal & Navigation Co. He told my attorneys at the time that the Reading would acknowledge the assignment of the lease within a few days, and, being anxious to go ahead with it, I took his word for it; but the assignment to me was never forthcoming; I never got the assignment from the Reading to me of the two-thirds interest; but only two weeks before that the Reading consented to an assignment from the widow of a man named Simon Loch, who had been a representative in the House of Representatives of Pennsylvania which passed what was known as the Loch road bill.

Q. You say "two weeks before"; do you mean two weeks before you received notice of forfeiture?—A. No; before this party, Baird Snyder, sold me the two-thirds interest they consented to an assignment of that interest. At the time I found out that they said that this lease had been forfeited, they wrote me a letter and stated that it had been forfeited two years before I even took possession of the ground, so that under these conditions they consented to an assignment from widow Loch to Baird Snyder two years after the lease had been forfeited; and in that condition——

Q. How long had you been working this property when they gave you this notice?—A. Oh, I suppose probably two years, or around that neighborhood.

Q. After you received that notice upon your application for the mine maps, what did you do, Mr. Warnke?—A. I do not just remember what I did. I think I went to see Mr. Richards about it, but I always had an awful hard time to get any interview with him.

Q. What did he say to you at that interview, if you can remember?—A. I think he told me that he could not do anything in regard to the matter; that the lease had been forfeited long ago; and he would not let us go ahead.

Q. What did you do then?—A. I tried to swap him the lease or give him the rights, providing he would lease me a certain culm bank, which was in the neighborhood——

Q. What was the name of that culm bank?—A. Lincoln.

Q. Who owned it?—A. The Philadelphia & Reading Coal & Iron Co.

Q. Did Mr. Richards agree to that proposition?—A. No, sir.

Q. And, then, what did you do with it?—A. I think I went to see Mr. Baer at Philadelphia.

Q. Mr. George F. Baer?—A. Yes, sir.

Q. What interview had you with him?—A. I went over the whole matter with him, and I think he told me that I would have to take the matter up with Mr. Richards; that that was in his territory, and it was up to him to decide; yet at the time he thought——

Mr. REED. Mr. President, we can hardly hear the witness.

The PRESIDENT pro tempore. The witness will speak louder, so as to be heard not simply by the manager who is conducting the examination but by the whole Chamber.

The WITNESS. I will try to do so. Mr. Baer agreed with me that if what I had said was right Mr. Richards should do something in the matter to straighten it out; but in the meantime he said,

"I will have to talk to Mr. Richards," or "You go to see him." So when I went to see him again I got the same answer—nothing doing.

Q. You went to see him. Did you go back to see Mr. Baer again?—A. No; I believe I sent an attorney then to him.

Q. Did he have an interview with Mr. Baer on this subject?—A. Yes, sir.

Q. With what result?—A. Not any.

Q. Did you have any difficulty in getting an interview with Mr. Richards?—A. Always did have, more or less. I could not seem to get an answer to any of my letters or even get an interview.

Q. Did you ever fail when you went to his office to get an interview at all?—A. Yes, sir; one week I waited three days to get an interview of five minutes.

Q. After your failure to get a personal interview, and after having seen President Baer, did you write to Mr. Richards on the subject?—A. I do not remember any more, really, whether I did or not.

Q. You say you do not remember whether you did or not?—A. No; I do not believe I did; I do not believe I wrote him any letter.

Q. If you did, did you receive any reply?—A. I believe the last letter in reply I got was when he told me that the lease had been forfeited two years previous to my taking possession of the property.

Q. Do you recall that after that time you wrote him another letter to which he did not reply?—A. I do not really know. I may have written him one, but I do not recall one.

Q. You do not remember whether you so recollected when you were before the committee of the House? [A pause.] It is immaterial; I will not press you further about that.—A. I can not recollect.

Q. After you had sent your attorneys to Mr. Baer and they had failed to get any result, did you see any other person on the subject?—A. Yes, probably; but I guess a year afterwards.

Q. Who was that other person?—A. Judge Archbald.

Q. How long have you known Judge Archbald?—A. Oh, as far back as I can remember.

Q. Did you have a personal interview with him about it?—A. Yes, sir.

Q. What, if anything, did you request him to do?—A. I asked him if he ever got to Wilkes-Barre, or, in the first place, I asked him if he knew Mr. W. J. Richards. He said he did, and I asked him if he ran across him or in his way, or if he happened to get to Pottsville, to intercede with W. J. Richards to reopen negotiations with me to try to settle my difficulties.

Q. Did he undertake to do it?—A. He told me that he would be in Pottsville in a few weeks, and if he had time he would call on him.

Q. Did he call on him for you?—A. Yes, he did.

Q. With what result?—A. Oh, I think it was at least six weeks after I had the interview with him that I called him up by phone, and he told me that Mr. Richards had told him that his answer to me was final.

Q. Do you know about what time he had his interview with Mr. Richards?—A. I think it was in December, a year ago this December.

Q. A year ago this December—1911?—A. Yes; I think along there.

Q. And how long after that time was it that you called him up and received this information from him?—A. Oh, it was four weeks after he had seen him, probably.

Q. Did you at any time thereafter give to Judge Archbald a promissory note for $500?—A. No; not I myself.

Q. Did you execute a note to be given to him?—A. The Premier Coal Co. did; yes, sir.

Q. Who is the Premier Coal Co.?—A. Composed of myself, a party by the name of Kizer, and Swingle and Slager.

Q. A corporation or a partnership?—A. A corporation.

Q. Did you indorse the note of the Premier Coal Co.?—A. Yes.

Q. And was it delivered to Judge Archbald?—A. That I do not know.

Q. Of your own knowledge?—A. Of my own knowledge; no, sir.

Q. Do you or do you not know of your own knowledge that he discounted it and received $500 for it?—A. I believe the note was never renewed. It was a four months' note, and I never reindorsed it, so I think when it became payable it was paid. Mr. Swingle was treasurer of the company—yes, treasurer. I guess the note was met. Whether Judge Archbald got it discounted or who did, I do not know. I did not ask and do not know to-day.

Q. When the note was paid, it was paid not to Judge Archbald but to some assignee of his; is that correct?—A. I do not know.

Q. The note was made payable to him in person, was it?—A. The note was made payable to ourselves, I think.

Q. And indorsed over to him?—A. Payable to ourselves.

Q. What is the business of the Premier Coal Co.?—A. Washing a culm bank.

Q. Where?—A. Oh, in Lackawanna County, near the Pittston, Luzerne County, line, on the old Pennsylvania gravity railroad.

Q. How long has it been in that business?—A. Since last spring.

Q. Did it lease or buy a bank for that purpose at that time?—A. It bought a bank under the condition virtually of a lease; the purchase money was $7,500; $2,000 down and the balance to be paid at 20 cents a ton until the other $5,500 was paid. So I could not say whether you would consider that as a lease or a mere equity.

Q. From whom did you get that?—A. The Lacoe & Shiffer Coal Co.

Q. Did you negotiate that for the Premier Coal Co.?—A. Yes, sir.

Q. Tell us briefly how you came to be interested in that property.—A. I went into the office of what is known as the Central Pennsylvania Brewing Co., of the city of Scranton. I have a friend who is president of that company. He told me that there had been a party in a day or so before who offered him the sale of a culm bank, and he wanted me to go down and make a test of it and report on it as an expert. I did. That is how I came to get mixed up with it.

Q. Proceed now with what transpired after that time in regard to your acquisition of the bank.—A. I reported on the bank and told him, if I remember correctly, that it was a very good purchase, and that he had better purchase it at once, as it was a very good bargain and the coal was A1 quality, and the quicker he would purchase it the better he would be off, because I thought it was a very good purchase for him to make.

Q. Well, did he purchase?—A. He took the matter up with the directors and they declined. It kind of hung fire along for about a month, and I asked him one day what he was going to do about it. Excuse, me; in the meantime I brought some of this coal up, two loads of it, and they tested it in their boilers. But that was just as it came from the bank. But I asked the president of the Pennsylvania Brewing Co., at the expiration of about four weeks, whether he intended purchasing this property or not. He told me the rest of them did not seem to care much about it, and he was not going to bother. So I said I would try to open up negotiations and purchase it myself, which I did.

I went to John Henry Jones, who first took this property to the Pennsylvania Brewing Co. I saw him about it. I asked him for information, and he told me I could get more from Judge Archbald.

Q. You could get more?—A. Could get better information from Judge Archbald in regard to the property.

Q. Did you go to Judge Archbald about it?—A. Yes.

Q. What sort of information did you go to Judge Archbald for?—A. In the first place, the conditions of the purchase, and also the character surrounding the title of the property.

Q. Why did you go to Judge Archbald about the title to the property?—A. Well, I knew that the judge in years gone by had been an attorney through there——

Mr. OVERMAN. I can not hear what the witness says.

The PRESIDENT pro tempore. The witness must speak louder.

A. The reason I went to Judge Archbald was that I thought the judge would probably know the information better than I would get or could get by hiring another attorney, which was the question whether the Pennsylvania still owned the right of way through that property or not.

Q. (By Mr. Manager DAVIS.) You were referred to Judge Archbald on that question by John Henry Jones?—A. Not exactly that; but I asked John Henry Jones where I could get more data as to purchase money and the conditions of purchase money, and he said it was not on that account——

Q. Did you not say before the Judiciary Committee that you were referred to him by John Henry Jones on the question of title, and went to him as a lawyer to consult him about it?—A. I do not just remember. I may have said that, but if I did, I do not remember.

Q. What conversation did you have with Judge Archbald?—A. I asked him the price and conditions, and the price of $6,500 first, but that was cash. That was the price put up to the Central Pennsylvania Brewing Co. Then, if it was not cash, afterwards—some few days or a week or more had elapsed—and the price of $7,500, providing $2,000 only was to be paid in cash, and the balance, $5,500, was to be paid at 20 cents a ton royalty.

Q. Did you have any conversation with Judge Archbald on the question of title?—A. We did talk about the matter several times, and he told me he thought there was not any question about it. So I did not even go looking into the matter of title.

Q. Is that all the conversation you had with him?—A. That is about all.

Q. When did that conversation occur?—A. This spring some time—last spring; I believe along in February or March, or somewhere along there.

Q. Did it not occur in the month of December, 1911?—A. Well, I do not remember when that was first brought up; I believe it was in December; yes, it was in December that the proposition was brought to the Pennsylvania Brewing Co. But I think it was in January—it was after that—it was a month after it was brought to them before I went into it. I could not state just what time it was.

Q. How long was this conversation of yours with Judge Archbald?—A. I do not know; several different times. Maybe 10, 20, or 25 minutes at a time.

Q. And all he ever said to you on the question of title was that it was all right?—A. Yes; that he thought it was all right; that he did not think it was worth while to look into the matter.

Q. Did he disclose to you at that time that he was personally interested in the sale?—A. No, sir. The only thing I knew—in the first place, John Henry Jones told me that $500 of the $6,500 was a commission that was to be divided between him and Judge Archbald; but I thought at the time the price was raised to $7,500 that the commission had ceased so far as Mr. Jones and Judge Archbald were concerned.

Q. Did Judge Archbald tell you at any time in that conversation that he was interested in the transaction?—A. No; I do not think exactly; no, sir.

Q. Why did you give Judge Archbald or have a $500 note given to him?—A. In the first place, when John Henry Jones asked me about the $500 commission he was to receive, I told him there was not any—the $7,500, I thought, took the commission away from it, and I thought as long as they felt that way about it, the judge was entitled to something. Therefore, I told our people that we had better give him $500 for services, commission, or whatever they might call it.

Q. What did you give it to him for?—A. I thought I was giving it to him for information in regard to title, but it seems since that it was a little bit different from that.

Q. Why did you think you were giving it to him for information in regard to title?—A. Because I thought the price of $7,500, instead of $6,500, had taken the commission off.

Q. Did you have any conversation when you were at Judge Archbald's office with reference to compensating him for what he had done for you about the title in the course of 25 minutes?—A. I think we did. I told him that I would take care of him; that I would take care of him for the trouble I had put him to.

Q. Did he assent to that?—A. No; he did not consent to it either way; he did not say anything. I think one time he did say that he did not want anything; did not expect anything for that.

Q. All the trouble you had put him to up to that time was an interview of about 20 or 25 minutes.—A. No, sir; I had two or three interviews with him.

Q. Did you say this to the judge at that time?

Mr. SIMPSON. What page?

Mr. Manager DAVIS. Page 1154:

So I asked the judge about the title, and he said he could not be my attorney. I says, "I understand you know something about these right of ways that went through this property, this Lacoe & Shiffer property." He said he did. I says, "All I want is your opinion, whether you think the title is right or wrong." He told me the title as far as he knew, and he went on to explain the right of ways, and how the Pennsylvania became in possession of it, and told me then how it was dated back to Lacoe & Shiffer. I told him then that I was thinking of purchasing this property.

You were then asked what month or year, and you stated it was sometime in December, and proceeded:

Yes. So I told the judge that his information to me, as far as the title was concerned, was just as good for me as to get an attorney, and I would compensate him for it, and he says, "No; you need not do that at all." I says, "I really consider it worth to me just as much as attorney's fees, and I would like to have you accept it from me if I purchase the property."

Q. Is that your statement of the interview?—A. Yes, sir.

Q. Is that correct?—A. Yes, sir.

Q. On that examination, Mr. Warnke, you testified that your reason for giving the judge this money was the information he had given you, did you not?—A. Well, I thought——

Q. You did so testify, did you not?—A. I did so testify; yes, sir.

Q. Do you desire to modify that statement?—A. I want to modify it this way: At that time I thought that the $500 commission had ceased when the price had raised from $6,500 to $7,500, and therefore I thought he was entitled to something for his trouble.

Q. You dealt with the Lacoe & Shiffer Coal Co. direct, did you?—A. I did after it got to a basis of how much money was to be paid down and the conditions of the lease, and so forth; yes, sir.

Q. What was your reason for calling on Judge Archbald to secure you an interview with Mr. Richards?—A. Well, that I could not exactly explain, any more than I just happened to think of the judge and probably thought that he might be able to have Mr. Richards reopen negotiations with me.

Q. Other men had tried the same thing for you and failed?—A. Yes; an attorney, outside of myself.

Q. And you hoped that he could accomplish for you things that other men could not do?—A. No; I had very little hope. I did not really hope that he could accomplish it. That is one reason I did not call him up for weeks after he had seen him. It was four weeks after he had seen Mr. Richards before I ever saw or heard from Mr. Archbald in regard to his answer from Mr. Richards. So you can imagine it was very little hope that I had.

Q. It was your last shot, in other words?—A. It was my last shot; yes.

Q. The last desperate remedy?—A. Mr. Richards handed it to me.

Cross-examination:

Q. (By Mr. SIMPSON.) How long had you known Judge Archbald when you went to see him and asked him to see Mr. Richards?—A. Oh, as far back as I can remember.

Q. Was he to do anything except to see if Mr. Richards would give you another interview?—A. That was all.

Q. When testifying before the Judiciary Committee, in giving the reason which you were asked to give a moment ago by Mr. DAVIS, did you not say that the reason why you went to Judge Archbald was because everybody loved the man, and you thought as everybody loved him you might get a hearing and have redressed the wrong you thought had been done you?—A. Yes, sir; that was the reason. Judge Archbald was a man that was very well liked in his community, and I thought through that probably I could get some of my wrongs redressed; that Mr. Richards would probably give me another interview and probably fix things up.

Q. How much had you in fact lost in the proceedings by which they took this lease away from you after you had been working for two years?—A. From $65,000 to $75,000.

Q. What connection was there, if any, between the interview you asked the judge to have with Mr. Richards and the matter of the purchase and the giving of the note in the Lacoe & Shiffer Coal Co. matter?—A. Not any whatever.

Q. Was anything promised to the judge for seeing Mr. Richards?—A. No, sir.

Q. And this note, which was given to him, the $500 note, had no connection whatever with his seeing Mr. Richards?—A. No, sir; none whatsoever.

Mr. WORTHINGTON. What did he say?

Mr. SIMPSON. Nothing whatever, he said.

Q. (By Mr. SIMPSON.) Who was the acting agent for the Lacoe & Shiffer Coal Co. in the matter?—A. Mr. Berry really was; when it got down to negotiating the terms and conditions Mr. Berry attended to those himself.

Q. Will you give us his full name, please?—A. I think it is William H. Berry; I am not positive.

Q. Is it not John W.?—A. I am not positive as to the initials.

Q. John W. Berry. The first negotiations, as I understand you, grew out of the proposition made by John Henry Jones to the brewing company?—A. Yes, sir.

Q. And as the brewing company turned it down, you concluded there was enough in it for you to take it up?—A. Yes.

Q. And the negotiations in relation to that matter then occurred between you on the one side and Mr. Jones and Judge Archbald on the other, until it got down to the terms and conditions?—A. Yes.

Mr. REED. Mr. President, I have a question I should like to have propounded to the witness.

The PRESIDENT pro tempore. The Senator from Missouri presents a question to be propounded to the witness, which the Secretary will read.

The Secretary read as follows:

You state you appealed to Judge Archbald to get you an interview with Mr. Richards because everybody loved the judge. What reason do you have for believing Mr. Richards loved Judge Archbald?

The WITNESS. The Senator has got me. I would be willing to state that anybody within 20 miles of our community will bear me out in respect of the honorable Judge Archbald, but as far as the love of Richards is concerned, go ask Mike.

Q. (By Mr. SIMPSON.) Will you tell us whether or not Judge Archbald at any time made any demand upon you for any payment for seeing Mr. Richards?—A. No, sir.

Q. Or ever suggested it to you?—A. No, sir.

Q. He never did. Now, coming back to the point we were at, where was the settlement made of the purchase of the fill from the Lacoe & Shiffer Coal Co.?—A. In the Lacoe & Shiffer office at Pittston.

Q. Who were present?—A. The four members of the firm, and Mr. Berry, and I think Mr. Lacoe or Mr. Shiffer; I do not know which.

Q. Four members of which firm?—A. Four members of the Premier Coal Co.

Q. Of which you were a member?—A. Yes, sir.

Q. Was Judge Archbald present at the time?—A. No, sir.

Q. All the money that was paid was paid to whom?—A. I think a certified check was handed to Mr. Berry.

Q. That was the $2,000 to be paid at the time of the settlement?—A. Yes, sir.

Q. And the $5,500 which was the balance for the consideration was to be paid in royalty at the rate of 20 cents per ton?—A. Yes.

Q. How long was it after that settlement was made that you and your associates gave the Premier Coal Co.'s note, to your own order and indorsed by yourself, to Judge Archbald?—A. It may have been within a month or two; I could not say.

Q. Within a month or two after that date?—A. Yes.

Q. By the way, what connection, if any, has the Lacoe & Shiffer Coal Co. with any railroad?—A. Not any; that is, so far as I know. But I am quite positive they have not any.

Mr. SIMPSON. I think that is all, Mr. President.

Redirect examination:

Q. (By Mr. Manager DAVIS.) Did you give us the exact date, Mr. Witness, when you completed the purchase of the Lacoe & Shiffer dump?—A. I could not. I could not even swear to the month. I believe it was in March. It was the latter end of February or March; I am not positive; I do not remember.

Q. (By Mr. SIMPSON.) That is, of the present year?—A. Of the present year; yes.

Mr. Manager DAVIS. That is all.

Mr. Manager CLAYTON. The witness may be discharged so far as we are concerned.

Mr. WORTHINGTON. No; he is under subpœna from us. Of course, he is only discharged from attendance under the Government subpœna.

The PRESIDENT pro tempore. He is discharged from the subpœna on the part of the managers, but will respond to the subpœna of respondent's counsel.

TESTIMONY OF GEORGE F. BAER.

George F. Baer appeared and, having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager DAVIS.) Where do you reside, Mr. Baer?—A. At present in Philadelphia.

Q. What is your occupation?—A. For the purposes of this case I am president of the Philadelphia & Reading Coal & Iron Co.

Q. Are you also president of the Philadelphia & Reading Railroad Co. or Railway Co.?—A. Yes.

Q. You are president of the Reading Co.?—A. Yes.

Q. Is the Philadelphia & Reading Railway Co. a common carrier engaged in interstate commerce?—A. Yes.

Q. What is the character of the Philadelphia & Reading Coal & Iron Co.?—A. It is simply a mining company, engaged in the mining and selling anthracite and bituminous coal.

Q. What is the character of the Reading company?—A. The Reading company is a company incorporated in 1871, and it has the same powers under a special act of the assembly that the Pennsylvania company possesses, the Pennsylvania company being the company that operates the lines of railroad, as I understand, west of Pittsburgh. It is a charter that gives power to do almost any kind of business.

Q. Does the Reading company own a majority of the capital stock of the Philadelphia & Reading Railway Co.?—A. Yes.

Q. And also a majority or all the stock of the Philadelphia & Reading Coal & Iron Co.?—A. Yes; it owns all the stock of both the railway company and the coal and iron company, except such stock as is necessary to qualify directors.

Q. So that they are practically united through that common-stock ownership?—A. I will not say yes. I just give you what the facts are.

Q. That is not important. Do you know Frederic Warnke?—A. Yes; I met Mr. Warnke, the gentleman who was on the stand.

Q. Who was just on the witness stand?—A. Yes.

Q. Did you ever have any interview with him with reference to the controversy existing between his company and your own, the Philadelphia & Reading Coal & Iron Co., with reference to a lease held at Lorberry, Pa.?—A. Mr. Warnke came to me and said he had been involved in buying an interest in a washery, and it was impracticable to make that washery pay, with the small culm bank they had, and he wanted me to agree to lease him or his company—I have forgotten what the company was called—the culm bank of the Lincoln colliery. I told him we could not do that, that it was a fixed policy of the Coal & Iron Co. not to lease culm banks unless there was some special reason for it, and I explained what that might be. It might be a culm bank that was adjoining somebody else and we never could use it, and it might be possible therefore to make an exception to the general rule; but in all such cases the report of the vice president of the Coal & Iron Co., who resided at Pottsville and was in direct charge of mining operations, would have to be made, and special authority from the board. I referred him to Mr. Richards. Of course, I do not know what took place between him and Mr. Richards, except that Mr. Richards reported to me what the facts were, and I instructed him to say that under no conditions would we lease that culm bank.

Q. It was reported back to you from Mr. Richards?—A. Mr. Richards reported back to me that Mr. Warnke had been to see him. We discussed at the regular meeting that we generally have once a week in Philadelphia of all the coal superintendents the propriety of leasing, and my instructions to him were peremptory not to entertain the proposition to lease the colliery; that it did not come within any exception.

Q. Were you afterwards approached on behalf of Mr. Warnke by any other person?—A. Several persons. A lawyer from Scranton—I do not remember his name—and a lawyer from Wilkes-Barre came down to see me and pled with me, and had a story of hard luck, and I simply declined. I said that our decision with regard to the matter was final.

Mr. Manager DAVIS. That is all.

Cross-examination:

Q. (By Mr. SIMPSON.) Can you tell us about when it was you had that interview with Mr. Warnke?—A. Oh, I can not tell that. It must have been a couple of years ago. I have no idea, Mr. Simpson, frankly, and I would not like to fix the date. Mr. Richards probably can give you the date from his correspondence.

Q. Did you have any correspondence or conversation of any kind with Judge Archbald in regard to it?—A. None whatever.

Mr. SIMPSON. That is all; thank you.

Redirect examination:

Q. (By Mr. Manager DAVIS.) Just one further question. Did Mr. Richards report to you at any time that Judge Archbald had approached him on behalf of Mr. Warnke?—A. After this inquiry was started in Congress, something was said in the papers about this, and one day when Mr. Richards came to Philadelphia, last winter, I believe it was, I asked him about it, and then he simply told me that Judge Archbald had dropped in to see him at Pottsville and asked him whether anything could be done. I had told him that my decision was final in the matter, and that is all he reported to me and all I know about it.

Mr. Manager DAVIS. That is all.

Mr. Manager CLAYTON. The witness may be discharged.

The PRESIDENT pro tempore. The witness may be finally dismissed.

TESTIMONY OF W. J. RICHARDS.

W. J. Richards appeared, and having been duly sworn, was examined, and testified as follows:

Q. (By Mr. Manager DAVIS.) Where do you live, Mr. Richards?—A. Pottsville, Pa.

Q. How far from the city of Scranton?—A. About 80 miles.

Q. What is your occupation?—A. Vice president and general manager of the Philadelphia & Reading Coal & Iron Co.

Q. Of which Mr. George F. Baer, I believe, is president?—A. Yes, sir.

Q. Do you know Frederic Warnke?—A. Yes, sir.

Q. Do you know Judge Robert W. Archbald?—A. Yes, sir.

Q. Did you have any business transaction with Mr. Warnke in the year 1911 with reference to a coal operation of his at Lorberry, Pa.—A. Yes, sir. He had a lease on a certain coal bank from us and was an applicant for additional rights.

Q. What period of time did those negotiations cover?—A. I should say about four years, probably.

Q. What was the status of the matter in the year 1911?—A. We refused to extend the rights.

Q. What right was it he wanted?—A. He wanted an additional bank, known as the Lincoln Bank.

Q. Was there any controversy about his right to the lease under which he was operating?—A. I did not consider it so. He made some claim that certain——

Q. There was no controversy from your point of view?—A. No, sir.

Q. You claimed his lease had expired?—A. Yes, sir.

Q. He resisted that claim, I believe?—A. I do not know that he resisted it; he contended.

Q. Did he have any number of interviews with you on the subject?—A. Yes, sir; at various times.

Q. What was your response to him at those interviews?—A. That we could not lease this bank.

Q. Did Judge Archbald ever come to see you on the subject?—A. Yes, sir.

Q. When and where?—A. He came to Pottsville to see me on the 27th of November.

Q. 1911?—A. Yes, sir.

Q. Was that visit preceded by any correspondence?—A. Yes, sir; he wrote me a letter.

Q. Have you that letter?—A. Yes, sir.

Q. Produce it.

(The letter was handed to the manager.)

Mr. Manager DAVIS. We offer that letter in evidence without further identification. The Secretary will read it.

Mr. WORTHINGTON. There is no objection.

The Secretary read as follows:

[U. S. S. Exhibit 85.]

(R. W. Archbald, judge, United States Commerce Court, Washington.)

SCRANTON, PA., *November 24, 1911.*

W. J. RICHARDS, Esq., *Pottsville, Pa.*

MY DEAR MR. RICHARDS: Permit me to inquire whether you are to be at Pottsville Monday afternoon or Tuesday morning next; and, if so, whether I could see you for a few minutes? I am coming down to Pottsville on another matter, getting there Monday afternoon, and I would like to make the one trip serve both ends if possible. I could defer my coming for a day, so as to see you Tuesday afternoon or Wednesday morning, but would prefer the other arrangement. I endeavored to call you up by long distance this morning, but it was reported that you were out of town, and it was not known just when you would be back.

Yours, very truly, R. W. ARCHBALD.

Q. (By Mr. Manager DAVIS.) Did you answer that letter?—A. Yes, sir.

Q. Have you a copy of the reply?—A. (Producing paper.) I have a carbon copy of it.

Q. We will take that in lieu of the original and ask that it be read.

The Secretary read as follows:

[U. S. S. Exhibit 86.]

NOVEMBER 25, 1911.

Hon. R. W. ARCHBALD, *Scranton, Pa.*

MY DEAR MR. ARCHBALD: Yours of the 24th instant received to-day, and I have wired you this afternoon as follows:

"Letter received. Will be away Monday, but will be here Tuesday morning."

It will give me pleasure to meet you on Tuesday morning, as per your letter.

Yours, very truly, ——— ———,

Vice President and General Manager.

Q. (By Mr. Manager DAVIS.) Did Judge Archbald appear in accordance with that engagement?—A. Yes, sir.

Q. What arrangement did you have with him on the subject?—A. He simply asked me as to the status of these negotiations with Warnke, and I told him that we declined to make any further leases.

Q. How long was he in your office?—A. I can not recollect, but I do not think it was more than 15 or 20 minutes.

Q. Had he any other purpose at that interview?—A. No, sir.

Q. No other business, so far as you know?—A. No, sir.

Mr. Manager DAVIS. That is all.

Cross-examination:

Q. (By Mr. SIMPSON.) Did you have any other correspondence or conversation with Judge Archbald in regard to this matter?—A. No, sir.

Q. And you have given us, as far as you can now recall it, the substance of all that occurred during the time he was there?—A. Yes, sir.

Mr. SIMPSON. That is all.

Mr. Manager DAVIS. The witness may be discharged.

The PRESIDENT pro tempore. Finally?

Mr. WORTHINGTON. Yes, sir.

The PRESIDENT pro tempore. The witness may be finally discharged.

EBEN B. THOMAS.

Mr. Manager CLAYTON. Mr. President, Mr. Eben B. Thomas we will not need as a witness, and we therefore ask that he may be discharged.

Mr. WORTHINGTON. We have no objection, Mr. President.

The PRESIDENT pro tempore. The order will be entered.

TESTIMONY OF ALTON KIZER.

Alton Kizer appeared, and, having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager DAVIS.) Where do you live, Mr. Kizer?—A. In Scranton.

Q. What is your occupation?—A. Real-estate broker; principally real estate and builder.

Q. Do you know Judge Robert W. Archbald?—A. I do.

Q. Do you know Mr. Frederic Warnke?—A. I do.

Q. Are you a member or a stockholder of the concern known as the Premier Coal Co.?—A. Yes; we have organized a concern that we call by that name.

Q. Who compose that corporation or partnership, whichever it is?—A. Walter Schlager, S. H. Swingle, and Frederic Warnke, and myself.

Q. Who is president of the corporation?—A. Mr. Warnke.

Q. And who is its secretary and treasury?—A. Mr. Swingle.

Q. Where are your offices, Mr. Kizer?—A. Mears Building, 8, 10, and 11, Scranton, Pa.

Q. Did your corporation, to your knowledge, ever execute a note to Judge Robert W. Archbald for $500?—A. There was a note of $510 executed, made payable to ourselves and given to Judge Archbald.

Q. Payable to yourselves and then indorsed by yourselves?—A. Indorsed by ourselves; yes, sir.

Q. And delivered to Judge Archbald?—A. Yes.

Q. When and where was that note delivered to him?—A. At the Mears Building. I do not know just the exact date; some time in April, I believe.

Q. Of this year?—A. Yes.

Q. At your offices?—A. Yes.

Q. Was it delivered to him in person?—A. I think so.

Q. Did he come to your office for the purpose of getting it?—A. Yes.

Q. Who made the delivery to him?—A. There seems to be a little uncertainty about the delivery. Mr. Warnke thought it was me, but it was either Mr. Swingle or myself. At any rate, it was one of us, or both of us.

Q. Were you present at the time?—A. Yes.

Q. Had he any other errand to your office at that time?—A. Well, none that I know of. He might of dropped in to pass the time of day, but that was the principal errand.

Q. Had any arrangement been made in advance for his coming at that time to get the note?—A. I do not know that there had.

Q. Did you deliver it to him of your own motion or by direction of some of your associates?—A. Well, we had agreed. That was a part of the purchase price of the coal bank, and it was simply in readiness. Instead of paying the cash we simply made it in a note and included the discount.

Mr. REED. Mr. President, we can not hear the witness in this part of the Chamber.

The PRESIDENT pro tempore. The witness has been warned three or four times to speak louder.

The WITNESS. I am unable to get my voice up. I am not used to speaking in the Senate Chamber. That seems to be the trouble. I will get more used to it.

The PRESIDENT pro tempore. Proceed with the witness.

Q. (By Mr. Manager DAVIS.) Who wrote the note?—A. The treasurer, Mr. Swingle, as I remember it.

Q. Who signed it on behalf of your company?—A. He would also sign it as treasurer.

Q. Has that note ever been paid?—A. I think so.

Q. To whom?—A. To the bank where it was discounted, I presume.

Q. It was discounted, was it, by Judge Archbald?—A. I think so.

Q. What bank?—A. Well, it is my memory it was the Third National Bank.

Q. Of Scranton?—A. Yes.

Q. How many visits did Judge Archbald make to your office, do you remember, to get this note?—A. I remember one.

Q. Was there any other visit?—A. He might have come, but I remember one distinctly that I was present when he came.

Q. You mean one in addition to the visit when the note was presented?—A. No; I mean just the one.

Q. You do not know whether he made any other visits on the same errand or not?—A. He might have. I do not know that he did, and I do not know that he did not.

Mr. Manager DAVIS. That is all.

Mr. REED. Mr. President, I send a question to the desk to be propounded to the witness.

The PRESIDENT pro tempore. The Senator from Missouri propounds the following question, which will be submitted to the witness.

The Secretary read as follows:

Q. Give the full details of the conversation or conversations between yourself and your business associates relative to the payment to Judge Archbald of the $500.

The WITNESS. We were to pay $8,000 for the bank, out of which $500 was to be paid as commission. We paid $2,000 down, and the balance at 20 cents per ton royalty as it is taken from the dump.

Mr. REED. I should like to have the question read again to the witness.

The PRESIDENT pro tempore. Repeat the question to the witness, so that he may answer it fully.

The SECRETARY. The question is as follows:

Q. Give the full details of the conversation or conversations between yourself and your business associates relative to the payment to Judge Archbald of the $500.

The WITNESS. Well, I have tried to cover that. What point is it——

The PRESIDENT pro tempore. The witness will, so far as practicable, answer the question. A Senator is not allowed to propound a question orally to the witness.

Mr. REED. Mr. President——

The PRESIDENT pro tempore. Under the rule, the Senator can only propound a question in writing.

Mr. REED. I understand, Mr. President——

The PRESIDENT pro tempore. The Senator can send an additional question to the desk if he so desires.

Mr. REED. I understand the rule perfectly. I wanted to have this question——

The PRESIDENT pro tempore. The rule of the Senate does not permit the Senator to do further than to send a question to the desk in writing.

Mr. REED. The rule does not prohibit my requesting the Chair to ask the witness to answer again this question. That is what I am asking for.

The PRESIDENT pro tempore (to the witness). Remember the question, and answer it as fully as you can.

The WITNESS. I tried to carry the question, and I tried to answer it.

The PRESIDENT pro tempore. Give the question to the witness; give him the paper.

(The paper was handed to the witness.)

The WITNESS (after reading paper). Well, the full details are that we were simply to pay the $500 as commission on the sale of this bank.

Mr. REED. Mr. President, I desire to propound another question.

The PRESIDENT pro tempore. The question of the Senator from Missouri will be read to the witness by the Secretary when sent to the desk.

The Secretary read as follows:

Q. What did you say to your partners and what did they say to you when you discussed the payment of the $500? What was said about Judge Archbald's connection? Give the facts fully.

The WITNESS. Well, it was simply a commission for the sale of the bank.

Mr. REED. Mr. President, I do not think that is an answer.

The PRESIDENT pro tempore. The witness will look at the question and answer the particular question as to what was said. Read the question and answer it as it is written. There are two questions. Answer the first one first, and then the second.

The WITNESS (after reading the question). Well, as I before stated, we were to pay $8,000 for the bank——

The PRESIDENT pro tempore. Let me see that question. [After examining question.] Mr. Witness, you certainly know what that question means, and you are required to answer it. Answer what was said. Read the question again—the first question. Mr. Witness, that question must be answered by you without further delay.

The WITNESS. I am trying to answer it if I can understand it.

The Secretary again read the question, as follows:

Q. What did you say to your partners and what did they say to you when you discussed the payment of the $500?

The PRESIDENT pro tempore. That is a plain question.

The WITNESS. Well, we said we would pay the $500, and they drew up a note for it—made it in the form of a note.

The PRESIDENT pro tempore. The Secretary will read the second question.

The Secretary read as follows:

What was said about Judge Archbald's connection? Give the facts fully.

The WITNESS. Well, the only connection that I know of that Judge Archbald—we had met over in Judge Archbald's office, and it was agreed among ourselves that we pay $500 commission for the sale of this bank. Seven thousand five hundred dollars was to be paid to Mr. Berry. An arrangement was made with Mr. John W. Berry of $2,000 down and the balance to be paid at the rate of 20 cents a ton to be sure he got his money before the bank would be exhausted.

The PRESIDENT pro tempore (to the witness). You are not heard by the Senate. Why do you not speak louder?

The WITNESS. Well, I am endeavoring to.

Q. (By Mr. Manager DAVIS.) You say you were at Judge Archbald's office?—A. We were at Judge Archbald's office.

Q. When?—A. Well, I can not give the date—just a little before——

The PRESIDENT pro tempore. Before the manager proceeds, there is another question, sent to the desk by the Senator from Missouri [Mr. REED], which will be read by the Secretary.

The Secretary read as follows:

Q. State, as nearly as you can, all that Judge Archbald said when he came to your office; and what was said by you, or in your presence, to him.

The WITNESS. Well, as I remember, Judge Archbald came in, and he was given the note for $500. I do not know just the exact conversation that did take place, but we understood he was to receive the $500. There was some talk as to the title—whether the Pennsylvania Railroad Co. owned the tract or the Laurel Line or Lacoe & Shiffer. We probably went over that. We may have talked with the judge about it. We had an attorney with us who represented us. We were over in the judge's office, and from there finally we went down to—I am getting now to the time when we closed the transaction—we went down to Mr. Berry's office at Pittston, and the matter was closed up, and we made the final payment. We were represented by an attorney. That is the sum and substance of the whole transaction.

Mr. Manager DAVIS. Is there any other question on the part of the Senator?

The PRESIDENT pro tempore. There is no other question on the part of the Senator.

Q. (By Mr. Manager DAVIS.) When was it that you were at Judge Archbald's office?—A. Well, I can not give you just the date; I have not anything to recall the date, except the fact we were there. The date I could not just give you.

Q. How long before you closed the deal?—A. Well, just about that time, because we went down within a day or two or the same day or the following day with Mr. Berry. There were some other little transactions there. There were some things that the attorneys had to look up—the records—to see whether they had full right to it. This had originally been a Pennsylvania Railroad fill, and probably had changed hands once or twice, and the ownership was a question. That is, we thought that it might be a question as to whether Lacoe & Shiffer had the legal right to the fill.

Q. Let me ask you, were you buying the fill outright or buying a lease on it?—A. Well, originally we were to buy it outright; but it finally developed, as we went along the lines, that it was to be in the form of a lease, with a certain payment of $2,000 and the balance at——

Q. Did Lacoe & Shiffer own it outright or did they own it under a mining lease?—A. No; I think they owned it outright.

Q. You say you "think"; you certainly know.—A. They owned it outright; at any rate they signed the papers, and it satisfied our attorneys; so they must have owned it outright.

Q. Who was with you at Judge Archbald's office?—A. Well, I think we were all there—the parties interested.

Q. Name them.—A. Mr. Swingle was there and Mr. Schlager—I am not positive whether Mr. Warnke was or not—and I was there.

Q. Anyone else?—A. Our attorney was there.

Q. Who was your attorney?—A. Mr. Houck.

Q. Why did you go to Judge Archbald's office?—A. Well, it seemed that we went over there with the thought that the judge possibly had something to do with or had some interest in the bank as to the sale of it.

Q. You say you "think" and "possibly." You know why you went to Judge Archbald's office. Why was it?—A. That would be the reason we went there—to try to complete the negotiations for this bank.

Q. Why did you think that Judge Archbald had some interest in the sale of it?—A. Well, going back, this was brought to my attention, that there was a certain bank that might be had. I do not know how it did develop, but, at any rate, it developed that we understood that Judge Archbald had something to do

with the sale of this bank. Therefore we simply went over to Judge Archbald's office.

Q. Who brought it to your attention that there was a bank you might get?—A. Mr. Swingle, originally.

Q. Is that all the information you had about Judge Archbald's connection with it before you went to his office?—A. That is practically what we had about it.

Q. He did not own the bank, did he?—A. No; I do not think so.

Q. You knew that fact?—A. I knew he did not own it.

Q. What information had you personally about his connection with the deal before you went to his office?—A. I do not know that I had any, except that he was interested in the sale of the bank.

Q. In what way?—A. Well, that developed later—in the way of a commission.

Q. You did not know at that time, then, that he had a commission on it? Is that true?—A. No; I did not.

Q. What conversation did you have at Judge Archbald's office?—A. Well, it finally developed, as we were along the lines of the negotiation, that we were to pay him the $500 commission.

Q. For what?—A. For the sale of the bank if we completed the negotiations.

Q. What did he have to do with your completing the negotiations?—A. Well, there was considerable to do.

Q. What?—A. They had to find out who was the owner. It is not as easy a thing to find out who is the owner of a culm pile as it seems to be. There is this one claims to own it, and another one claims to own it, and that was the main thing to ascertain, if possible, who was the owner or who to go to.

Q. What help did he give you in ascertaining who was the owner?—A. Well, through his information we got in connection with Mr. Berry, as I remember the exact detail.

Q. Did you not know long before you went to Judge Archbald's office the people who were in charge of the bank were Lacoe & Shiffer and that Mr. Berry was their local representative?—A. Until we went there I had never met Mr. Berry.

Q. That is not my question.—A. No; I did not.

Q. Did you not know you were dealing for the Lacoe & Shiffer dump?—A. No; at the time we went to Judge Archbald's office I had no idea who owned the dump positively.

Q. Of course, your associates knew who you were dealing with?—A. They may have; I do not know; I did not.

Q. Did you have anything at all to do with that transaction before that day?—A. The day we went over?

Q. Yes.—A. We had talked it over, and I had even gone down to look at the dump, but I had not the slightest idea who owned the dump.

Q. Do you mean to say it was not until you got to Judge Archbald's office that you knew with whom you were dealing as owners of that dump?—A. That was about the time that John W. Berry appeared there in person, and it developed that he and Lacoe owned the dump.

Q. John W. Berry appeared where in person?—A. Well, I do not know just where we met Mr. Berry—whether it was on the street, or just where; but about the time Berry came to Scranton, and finally, in the final conclusion, we went down to Mr. Berry's office at Pittston.

Q. You did not meet Mr. Berry at Scranton or somewhere else by any introduction of Judge Archbald, did you?—A. Oh, no.

Q. Then I ask you again what service it was that Judge Archbald was to render you with reference to the purchase of this property?—A. Well, I understood that on the sale of the dump Judge Archbald was to receive a commission on the dump—a pure and simple commission.

Q. And why was he to receive that from you?—A. Well, in buying and selling—we frequently pay a commission on a sale of a house and often have to——

Q. Well, you do not do it unless you have some reason for it, do you?—A. Well, if we want it and have the purchase price, why, we have got to pay it.

Q. Why was Judge Archbald entitled to demand from you a commission on the sale of this property?—A. Well, I do not know as I can say.

Q. Did you never inquire?—A. I must have inquired.

Q. What was your information?—A. I simply understood that he was to receive a commission of $500 on the sale of that culm dump, if it was sold, and we wanted the dump.

Q. What service did he render to you and your associates that entitled him to that commission?—A. Well, first of all, he seemed to have the sale of it.

Q. How did that appear?—A. Well, it appeared that way because we went over to see the judge before it was finally purchased in the way of making terms.

Q. Did he seem to be the agent for the owners of the dump?—A. Well, perhaps not the agent, and perhaps he may have been.

Q. What did you say to him and what did he say to you on that subject?—A. Well, as I remember, he said that Mr. Berry, of Lacoe & Shiffer, had the dump for sale, and we were trying to get together. We wanted to buy it outright for cash originally. That is the way we talked it over first, but it finally developed that it took some talking back and forth, and Mr. Berry wanted a certain amount down and a certain amount per tonnage, and the judge assisted us in getting the arrangement completed.

Q. How did he assist you?—A. Well, by talking the matter over with us.

Q. How many interviews did you have with him at his office or elsewhere?—A. One; I am not positive—possibly two.

Q. And for talking it over with you there at his office and telling you that the Lacoe & Shiffer Co. owned the dump you agreed to pay him $500?—A. We were glad to pay $500 commission to get the bank, and we would have paid more for the bank if we had to. We thought it was good; it was hard to get, and we thought the commission was a fair one.

Q. Could you not have bought the dump without Judge Archbald's assistance?—A. Well, I do not know. The dump had laid there—well, for 40 years.

Q. Could you not have bought it without going over and holding that conversation at Judge Archbald's office, which seems to have been all he did for you?

Mr. WORTHINGTON. I object to the statement of the manager that that seems to be all he did. I think it is not for the manager to testify or speak on that point.

Mr. Manager DAVIS. It seems to me that that was all. But I will qualify my statement.

Mr. WORTHINGTON. Very well, then.

Mr. Manager DAVIS. But it fairly bears that construction without any explanation. Read the question.

The Reporter read the question.

The WITNESS. I do not know whether we could or not. We did not try any other way.

Q. (By Mr. Manager DAVIS.) Was your next interview with Judge Archbald on the subject at the time when he came to your office to get the note?—A. I do not remember.

Q. Do you remember what time of day he came to your office for that purpose?—A. Well, I do not know that I could tell the time of day.

Q. How long was he there?—A. Just a few minutes—probably 5 to 10 minutes—I could not say that.

Q. Did you engage in conversation with him?—A. Not particularly; no.

Q. Did anyone in the office engage in conversation with him?—A. I do not think so.

Q. Do you mean to say that he simply came in and got the note and went out without the exchange of any words?—A. Well, we might have talked the matter over. I do not remember whether we did, or what we said.

Q. Did he ask you for the note?—A. I do not know as to that. We had it ready when he came. He may have or might not.

Q. You do not remember distinctly that that was the only purpose of his presence there?—A. I think so.

Mr. REED. I would like to have this question propounded.

The PRESIDENT pro tempore. The Senator from Missouri submits a question to be propounded to the witness, which will be read by the Secretary.

The Secretary read as follows:

Do you want to be understood as testifying that when Judge Archbald came to your office you simply handed him a note for $500 instead of cash, and that nothing was said? There must have been a conversation about the payment and about why Judge Archbald was to be paid $500, and why a note was given instead of the cash. I want the conversation—what was said—and if you can not give the exact language then give its substance.

The WITNESS. The parties interested had already talked over as to the payment and the amount, and accordingly instead of paying cash we gave a note and included the discount, which made it cash; made the note payable to our order and indorsed it personally.

Mr. REED. I ask to have the question read to the witness and that he be instructed to answer; not to give his conclusions, but what was said.

The PRESIDENT pro tempore. The Secretary will hand the question to the witness so he can read it.

The WITNESS (after reading the question). As to the first item, we had already made arrangements to pay the $500, and had it ready, and I do not know that there was anything said. I do not know that I gave him the note. I do not know that Mr. Swingle did. I do not remember any conversation. As to

the note, instead of cash we considered a note made payable to our order, so there would be no difficulty in discounting.

Mr. REED. I ask that the witness be directed to answer the question.

The PRESIDENT pro tempore. The witness says he does not remember what was said.

Mr. REED. Mr. President, the last part of his answer was a mere conclusion, not the conversation or whether there was a conversation.

The PRESIDENT pro tempore. The witness has stated that he does not remember that there was any conversation.

The WITNESS. I do not remember what conversation was had. I do not remember what was said, if anything.

Mr. REED. Very well. I have one more question that I would like to have propounded.

The PRESIDENT pro tempore. The Secretary will read the question sent to the desk by the Senator from Missouri.

The Secretary read as follows:

Q. Did you understand that Judge Archbald was the agent of the owners of the dump; and if so, how did you get that understanding?

The PRESIDENT pro tempore (after a pause). Give the witness the question to read.

A. (*After reading* the question.) Well, that must have been my understanding, that Judge Archbald had to do with the sale of the dump; that he probably represented Mr. Berry. I do not know if it would be agent or just how, but we did understand that he was to have the $500 payment commission on the deal. And as to how I got that in mind, I do not know just how it did occur first.

Cross-examination:

Q. (By Mr. SIMPSON.) Mr. Kizer, do you know what became of the note?—A. Finally.

Q. Yes. After it was paid.—A. We got the note back to the office after it was paid.

Q. Do you know who has it now?—A. I think Mr. Swingle has it here.

Q. You spoke of this as being a fill, possibly belonging to the Pennsylvania Railroad Co.?—A. Yes.

Q. You meant the Pennsylvania Coal Co., did you not?—A. Yes; I wish to correct that—the Pennsylvania Coal Co. Let us see, now. The old gravity——

Q. The old gravity fill?—A. The abandoned bed of the old railroad.

Q. Which the Pennsylvania Coal Co. had for carrying their coal to connect with the other road?—A. Yes. I did not mean to say the Pennsylvania Railroad Co. I meant the Pennsylvania Coal Co.—the old gravity system.

Q. There is no connection between the Pennsylvania Railroad Co. and the Pennsylvania Coal Co?—A. None whatever. It is simply an old abandoned fill.

Q. You were asked as to any conversations in relation to the $500 to be paid. When did you first learn that there was $500 to be paid?—A. Well, I do not know just what time, but it was during the negotiations, and I remember we inquired, and we said——

Q. Just answer my questions, if you please, and we will get along very much better.—A. All right. I do not know.

Q. Who was it who said in your presence that there was $500 to be paid?—A. Well, I do not know but that it was Mr. Warnke.

Q. What did Mr. Warnke say when he said that? Just give as near as you can the substance of what he said.—A. I do not know but that Swingle told me—he or Warnke.

Q. Let us take one at a time and we will get along better. What was it he said, as near as you can remember?—A. Well, that the judge was to have $500.

Q. What did Swingle say?—A. He spoke about it—well, he wanted to know whether there was going to be any more $500.

Q. That is what Swingle said, was it?—A. Yes, sir.

Q. And who answered him?—A. Mr. Warnke, as I remember it.

Q. What did Warnke say in answer?—A. He said, "No; that is all."

Q. "That is all." Was the $500 spoken of afterwards?—A. Among oursevles, do you mean?

Q. Yes; I mean among yourselves.—A. Why, certainly.

Q. Who spoke of it next?—A. Well, we all talked it over.

Q. Can you not tell us who spoke of it next?—A. Well, Swingle told me about the $500, anyway.

Q. What did he say when he told you about it?—A. He said that it had developed that there was $500.

Q. To be paid?—A. To be paid.

Q. Did he say to whom?—A. To Judge Archbald.

Q. To Judge Archbald; and what did you say when Swingle said that?—A. Well, I do not know; I said—let us see. I may have said the bank was worth it, and we were willing to pay it.

Q. You say you may have said it. Do you recall whether you did say it?—A. Yes; I did say it.

Q. You recollect you did say it?—A. Yes.

Q. Was there anything said by anybody else about it?—A. Well; I do not recall any special conversation.

Q. Can you recall any other conversation occurring in your presence on the part of any of the members of your company in which this $500 note was spoken of?—A. Well, I do not just recall any.

Q. Then you think you have given us now as near as you can the language of yourself and associates what it was that was said in all the interviews in which that $500 note was spoken of?—A. That is what I am trying to do.

Q. I am asking you now whether you have given all that was said about that $500 note in all the interviews, as near as you can recall?—A. I think so.

Q. Did you know that Judge Archbald had an option on that gravity fill from the Lacoe & Shiffer Coal Co.?—A. Well, I do not know that I did.

Q. You do not remember hearing that spoken of?—A. I do not know but that I did.

Mr. SIMPSON. I think that is all.

Mr. Manager DAVIS. I think that is all. Mr. President, it is now five minutes of adjourning time. We may have some questions in the morning.

Mr. WORTHINGTON. We are not through.

Mr. SIMPSON. There is one other question that I want to ask the witness, which has been suggested to me by my colleague.

Q. (By Mr. SIMPSON.) Had the Premier Coal Co. or yourself, or, so far as you know, any of your associates except Mr. Warnke, any interest in the matter in dispute between Mr. Warnke and the Philadelphia & Reading Coal & Iron Co.?—A. Nothing whatever. We had no lawsuits pending in any court anywhere.

Q. Was there anything said at any time to the effect that this $500 was to be given or any payment of any kind to be made to Judge Archbald for anything he would do in that other matter?—A. Nothing whatever. It was simply the payment on the sale of the bank.

The PRESIDENT pro tempore. There are two questions sent to the desk by the Senator from South Dakota [Mr. CRAWFORD] that will be propounded, if there is time.

Mr. Manager CLAYTON. Of course I recognize that the managers have not the right to make a motion to that effect, but I respectfully suggest that the managers desire the time of the session of the Senate sitting as a Court of Impeachment extended this afternoon until we have concluded the examination of this witness, which I hope will not be very long.

Mr. Manager DAVIS. I think I have but one additional question, Mr. President.

Mr. GALLINGER. I was about to ask unanimous consent, as it is said a short additional time will be required to complete the examination of this witness, that the order of the Senate be so modified.

The PRESIDENT pro tempore. The Senator from New Hampshire suggests that the Senate sitting as a Court of Impeachment shall prolong its session beyond 6 o'clock until the examination of this witness may be concluded. Is there objection? The Chair hears none, and it is so ordered.

The Secretary will propound the first question which has been sent to the desk by the Senator from South Dakota [Mr. CRAWFORD].

The Secretary read as follows:

Q. Is it customary in your locality for the buyer of property to pay a commission to the agent representing the owner who sells it?

The WITNESS. Will you read it again?

The question was again read.

The WITNESS. It is, very frequently.

The PRESIDENT pro tempore. The Secretary will read the next question propounded by the Senator from South Dakota [Mr. CRAWFORD].

The Secretary read as follows:

Q. Do you mean to say that while Judge Archbald was agent for the seller of the dump he accepted a commission from the buyer of it?

The WITNESS. Well, I do not know that he was agent. He may have had an option, and at any rate I know we paid the——

The PRESIDENT pro tempore. You are not to direct your answer to the Secretary. You are speaking to the Senate now, and you should talk out louder, so that everyone can hear.

The WITNESS. Will you give me that question again? [The question was handed to the witness.] The commission may have been from the fact that he held the option on the thing.

We have frequently paid commissions. I mean to say we paid a commission on the sale of the dump—$500.

Q. (By Mr. Manager DAVIS.) You say one of the questions you took up with Judge Archbald was the matter of the title?—A. We talked it over with Judge Archbald, notwithstanding the fact that we were represented by an attorney.

Q. And your doubt about the title arose from the claims of the Pennsylvania Coal Co. Was the title that you feared the possibility of the title of the Pennsylvania Coal Co.?—A. This portion was a fill on the old Gravity bed, and it had been abandoned. It developed that Lacoe and Shiffer, who owned land around there when the road was abandoned—if the old Gravity Railroad did not have a deed for it, it reverted back to the original owner. Therefore there was a question whether the parties owning the land adjoining it would be the legal owners or it would still remain in the possession of the old Pennsylvania Gravity Railroad, long since out of existence—probably 20 years.

Q. That Pennsylvania Gravity Railroad was the Pennsylvania Coal Co.?—A. Yes; and they used this road to take coal to market.

Q. But you say the Pennsylvania Coal Co. had no connection with the Pennsylvania Railroad Co. I believe that was your statement?—A. No; it was that the Pennsylvania Railroad Co.—what we know now as the Pennsylvania Railroad Co.—has no connection whatever.

Q. It is a fact, is it not, that the Pennsylvania Coal Co. is one of the operating companies owned by the Erie Railroad Co.?—A. They were purchased by the Erie—all the holdings.

Q. It is a fact, is it not, that Mr. W. A. May is vice president and general manager of the Pennsylvania Coal Co.?—A. I believe he is; yes.

Q. Also vice president and general manager of the Hillside Coal & Iron Co.?—A. That is his title, as I understand.

Q. One and the same man?—A. Yes.

Q. I believe that is all.

The PRESIDENT pro tempore. The Senator from Missouri [Mr. REED] has sent a question to be propounded to the witness. It will be read.

The Secretary read as follows:

Is it customary in your country for a man to act as the agent of the owner of property in the sale thereof and at the same time to act as the attorney of the purchaser in the examination of the title?

The WITNESS. As to examining the title, we were represented by an attorney who satisfied us as to the legal points of the title.

The PRESIDENT pro tempore. You are not answering the question, Mr. Witness.

The WITNESS. I would say no.

The PRESIDENT pro tempore. Well, that is an answer to the question. The witness says "No."

Mr. Manager CLAYTON. Mr. President, this witness may be discharged.

The PRESIDENT pro tempore. The witness may be finally discharged?

Mr. Manager CLAYTON. Yes, sir.

The PRESIDENT pro tempore. The witness may be excused finally.

SUBPŒNA AND DISCHARGE OF WITNESSES.

Mr. Manager CLAYTON. Mr. President, I desire that the following witnesses may be discharged: James F. Bell, V. L. Petersen, and W. L. Pryor. We agreed to discharge Mr. Pryor the other day, but there seems to have been some misunderstanding about it. Also John M. Robertson may be discharged.

Mr. WORTHINGTON. Petersen and Robertson are under our subpœna, and we wish to have them kept.

The PRESIDENT pro tempore. The witnesses whose names have been read by the manager will be discharged from liability to the managers, but a summons will be issued on behalf of the respondent to the two who have been named by counsel.

Mr. WORTHINGTON. As far as Pryor and Bell are concerned, we do not care to have them retained.

C. H. VON STORCH AND W. M. RUTH.

Mr. Manager CLAYTON. C. H. Von Storch and W. M. Ruth have been duly subpœnaed on behalf of the managers on the part of the House to appear here as witnesses. The process has been regularly served upon them, as shown by the return of the Sergeant at Arms of the Senate, and I wish them to be called now so that I may move for an order.

The PRESIDENT pro tempore. The Sergeant at Arms will call the witnesses named.

The SERGEANT AT ARMS. C. H. Von Storch! C. H. Von Storch! C. H. Von Storch! Appear and answer the summons.

W. M. Ruth! W. M. Ruth! W. M. Ruth! Appear and answer the summons.

Mr. Manager CLAYTON. I ask for the adoption of the order which I send to the Secretary's desk.

The PRESIDENT pro tempore. The Secretary will read the order.

The Secretary read as follows:

Ordered, That attachments do issue in accordance with the rule of the Senate of the United States for C. H. Von Storch and W. M. Ruth, witnesses heretofore duly summoned in this proceeding on behalf of the managers of the House of Representatives.

The PRESIDENT pro tempore. The order will be issued in accordance, unless there be objection on the part of the Senate.

Mr. GALLINGER. I move that the Senate sitting as a Court of Impeachment do now adjourn.

The motion was agreed to.

Mr. GALLINGER. I move that the Senate adjourn.

The motion was agreed to; and (at 6 o'clock and 10 minutes p. m.) the Senate adjourned until to-morrow, Saturday, December 14, 1912, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

FRIDAY, *December 13, 1912.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Father in heaven, draw us by Thy holy influence to that nobility of soul without which the ideal home can not be, without which the pure patriot can not be, without which the real statesman could not be, without which pure and undefiled religion could not exist; that our homes may be pure and holy, our Republic rich in citizenship, strong in statesmanship, and our faith be deep and ever abiding in Thee, O God our Father. Amen.

THE JOURNAL.

The Journal of the proceedings of yesterday was read.

Mr. MANN. Mr. Speaker, I notice that the Journal shows, from the reading, that on yesterday the gentleman from Ohio [Mr. ANSBERRY] moved to reconsider the last three votes, as I understood, relating to the contested-election case. Mr. ANSBERRY and myself both made motions and asked that they lie on the table. The gentleman from Ohio did not vote with the majority on the last proposition, and would have no right to make a motion to reconsider on that. I take it that if the Journal shows that he did make the motion and no point of order was made upon it that would settle it.

The SPEAKER. The Chair understood, when the gentleman from Ohio [Mr. ANSBERRY] made his motion, that he made it with reference to the committee resolution. Of course the point stated by the gentleman from Illinois is absolutely correct. What suggestion has the gentleman to make?

Mr. MANN. I have no desire to have the Jounal corrected in that respect if the Speaker holds that, the motion having been made and no point of order having been made as to the right of a gentleman to make it, it is too late to make the point of order after the matter is disposed of.

The SPEAKER. The Journal ought to be changed to conform to the fact, and that is that the gentleman from Ohio [Mr. ANSBERRY] made the motion to reconsider on the committee resolution——

Mr. MANN. On the substitute and on the committee resolution, and I made the motion to reconsider on the Palmer resolution.

The SPEAKER. And that the gentleman from Illinois [Mr. MANN] made the motion to reconsider on the Palmer resolution. Without objection, the Journal will be corrected to show the facts as stated by the Speaker.

There was no objection.

The Journal was approved.

EXPLANATION OF VOTE.

Mr. ANDERSON. Mr. Speaker, on page 498 of the RECORD of December 11, on the vote to recommit, I am recorded as voting "present." By arrangement with the gentleman from Mississippi [Mr. COLLIER] I had supposed that I was paired with another gentleman from Mississippi [Mr. SISSON], who was sick. Consequently I did vote "present." I desire to state, however, that by some misunderstanding Mr. SISSON was paired with the gentleman from North Dakota [Mr. HANNA], and that if there had been no such misunderstanding and I had been at liberty to vote, I would have voted "yea" on that motion.

Mr. COLLIER. Mr. Speaker, I would like unanimous consent for one minute and a half.